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1913

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NEW YORK STATE DEPARTMENT OF LABOR

TWELFTH ANNUAL REPORT

OF THE

COMMISSIONER OF LABOR

FOR THE TWELVE MONTHS ENDED SEPTEMBER 30,

1912

TRANSMITTED TO THE LEGISLATURE MARCH 17, 1913, AS PART OF THE TWELFTH REPORT OF THE DEPARTMENT OF LABOR

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MARCH 17, 1913.

TWELFTH ANNUAL REPORT

OF THE

COMMISSIONER OF LABOR

STATE OF NEW YORK:

DEPARTMENT OF LABOR,

ALBANY, *March* 17, 1913.

To the Legislature:

Pursuant to law, the annual report of the Commissioner of Labor for the year ended September 30, 1912, is herewith submitted. Appended thereto will be found the general reports of those bureaus of this Department, concerning whose operation the Commissioner of Labor is required to report annually.

Respectfully,

JOHN WILLIAMS,

Commissioner.

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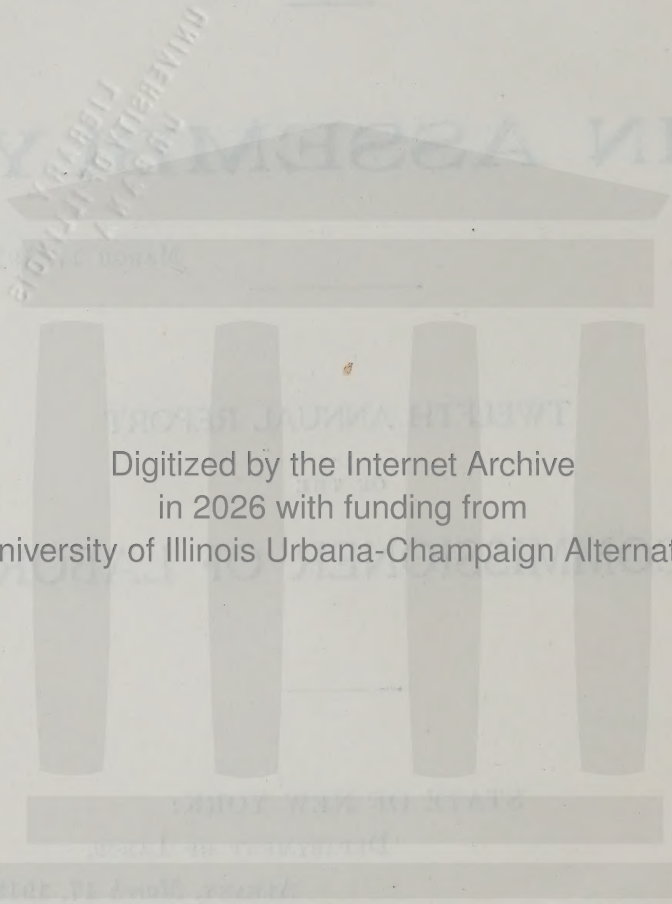

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REPORT OF THE COMMISSIONER OF LABOR.

To the Legislature:

Pursuant to law, I herewith submit my report for the year ended September 30, 1912. There are appended hereto the general reports of certain bureaus in the Department (to be supplemented by more detailed reports later), together with an index of bills relating to labor introduced in the last session of the Legislature, and a compilation of all laws relating to labor in force at the close of the year, and copies of opinions construing the Labor Law rendered by the Attorney-General during the year.

Publications.

The following publications, other than reprints from Bulletins, and circulars, posters, or pamphlets of laws for administrative purposes, have been issued by the Department during the year:

Annual Reports for 1910: *
  Annual Report of Bureau of Factory Inspection.
  Annual Report of Bureau of Mercantile Inspection.
  Annual Report of Bureau of Mediation and Arbitration.
  Annual Report of Bureau of Labor Statistics.
Annual Reports for 1911:
  Annual Report of the Commissioner of Labor.
  Annual Report of Bureau of Industries and Immigration.
Quarterly Bulletins:
  No. 49 (December, 1911).
  No. 50 (March, 1912).
  No. 51 (June, 1912).
  No. 52 (September, 1912).
Monthly Bulletin of Licensed Tenement Houses (twelve issues).
Pamphlet of "Don'ts for Mine and Quarry Workers," for instruction of workers in the prevention of accidents.

Offices.

It is regrettable that each succeeding year we find it necessary to direct attention to the totally unfit quarters we are compelled to use for office purposes in the Capitol. The space allotted to

* The annual report of the Commissioner of Labor for 1910 was published in 1911.

us is inadequate and ill-adapted to our work. The rooms are overcrowded with furniture, stock for departmental use, and clerks whose work is seriously hampered by reason of the overcrowding. Our work continues to increase. This in turn serves to make our condition worse. We have repeatedly urged the imperative need of relief, but hitherto without results.

In New York City we have branch or sub-offices in two separate buildings. At 381 Fourth avenue, the various bureaus of the Department are quartered with the exception of the Bureau of Industries and Immigration, which is located at 95 Madison avenue. An aggregate rental of $7,760 is paid for New York City offices. The work of the Bureau of Industries and Immigration is so distinct from that performed by other bureaus that its separation from the other offices does not interfere in the least with its efficiency.

Sub-offices have been established in Buffalo, Rochester and Utica. These offices afford opportunities to manufacturers in the surrounding cities and towns to come in contact with the district supervising inspectors who are in charge of such offices.

Organization.

It is a source of satisfaction that gradually the interests of the working people of the state are being recognized. The equipment of the Department of Labor is the most important factor in the enforcement of the Labor Law. Hence, when we can point to an increase of almost 70 per cent in the working force of the Department within two years, it is proof that the claims of labor are receiving serious and favorable consideration. The Legislature of 1910 provided for a force of 120 persons, and in 1912 provision was made for 203. This force, when the complement of each division is full, will be apportioned as follows:

Administrative Branch.— The commissioner, counsel, one special agent (legal), confidential clerk, confidential agent, audit clerk, one stenographer and a page.

The Bureau of Factory Inspection.— The chief factory inspector (first deputy commissioner), one assistant, mechanical engineer, superintendent of licenses, medical inspector of factories, two tunnel inspectors, mine inspector, eight supervising factory inspectors, eighty-five factory inspectors, one chief clerk and twenty stenographers and clerks.

The Bureau of Labor Statistics.— The chief statistician, three senior statisticians, five junior statisticians, two experts, five special agents, two clerks, two stenographers and a librarian.

The Bureau of Mediation and Arbitration.—The chief mediator (second deputy commissioner), mediator, two assistant mediators, a special agent and one clerk.

The Bureau of Mercantile Inspection.— The mercantile inspector, nine deputy mercantile inspectors, a clerk and one stenographer.

The Bureau of Industries and Immigration.— The chief investigator, counsel, secretary, two supervising investigators, eight special investigators, one special agent, nine stenographers and clerks.

The Division of Industrial Directory.— The superintendent, four special agents, one stenographer and two clerks.

The organization of the bureau of factory inspection has been materially strengthened by the provision for the appointment of supervising inspectors, of whom there are eight. This feature will be discussed under the appropriate head.

Each bureau has applied itself to its allotted task with energy and zeal during the year, and the results on the whole have been very satisfactory.

Labor Law on Public Work.

The administration of the labor law relating to public work has been under the immediate direction of the commissioner of labor.

Once again I wish to direct attention to the penalties provided for infractions of its requirements.

If a contractor engaged on public work requires or permits any laborer, workman or mechanic to work more than eight hours in one calendar day, or if he pays to any such employee less than the prevailing rate of wages, he is liable to have his contract annulled. In fact, when proof of such violation is submitted to the officer, department or board having charge of such work, the law directs that " such officer, department or board shall thereupon take the proper proceedings to revoke the contract."

The drastic nature of the penalty provided affects the disposition of almost every violation found. It is in most instances so

out of proportion to the character and extent of the offence that its enforcement would outrage every sense of justice and decency. At the same time it must be borne in mind that failure to enforce the penalty reduces the law to a farce, for it means that when a contractor either wilfully or carelessly permits a violation upon his contract, he may expect to have his estimates held up for a time. But he is subjected only to the inconvenience and annoyance of waiting for his money. Eventually the money is released and the violation is virtually condoned. Would it not be better to amend the law so as to provide a civil penalty, to be recovered by the commissioner of labor in his name of office? The penalty could be made sufficiently heavy to serve as a deterrent, and in the event of violation the offence could be adequately punished. If this suggestion were to be seriously considered, it might be advisable to provide that during the pendency of suits to recover such penalties, payments on account of the contracts involved should be withheld.

Investigation and Enforcement.— The number of complaints alleging violations of sections 3 and 14, received and investigated, was 60. Of these, 45 related to hours of labor, 13 to the rate of wages, and 2 to the employment of aliens. Of the 45 allegations that the eight-hour law was being violated, 22 were sustained and such action was thereupon taken as the facts and the law warranted. It does not appear that any public official to whom evidence of violation was presented by the commissioner of labor, instituted proceedings for the annulment of the contract held by the violator.

The commissioner of labor has no further duty in regard to the enforcement of the penalties prescribed in sections 3 and 21.

In the report for 1911 reference was made to the difficulty of enforcing the clause in section 3 of the Labor Law requiring the payment of the "prevailing rate of wages" to persons employed on public work. A case in point, arising on one of the contracts for the construction of a section of the New York City water supply, was mentioned as illustrating the difficulties. That case was then pending in the hands of the commissioner of labor. A decision was rendered on February 29, 1912, modifying slightly the decision from which an appeal had been taken. When the

modified decision was rendered, the contractor (The Keystone State Construction Company) applied to the Supreme Court for a writ of certiorari and a stay of proceedings pending argument on the motion for the writ. The writ of certiorari was granted and the stay continued. The Attorney-General, acting for the commissioner of labor, appealed the case, and on September 11, 1912, the Appellate Division of the Supreme Court, Third Department, reversed the order of the Special Term. Before the order of reversal was filed, however, the construction company appealed the decision and secured a further stay of proceedings; so that sixteen months after the investigation of the complaint by the commissioner of labor, the issue remains undetermined. Meanwhile the contractor is prosecuting his work with undiminished vigor, and presumably is paying to the laborers employed a rate of wages below the prevailing rate in the locality of the work.

If the Court of Appeals sustains the decision of the Appellate Division, the evidence upon which the commissioner of labor fixed the rate of wages, with the admissions of the company regarding the rate or rates paid by it, will be transmitted, pursuant to section 21 of the Labor Law, to the Board of Water Supply and to the comptroller of the city of New York. When that has been done, the real issues of the case may be threshed out.

The court proceedings up to the present time have hinged upon the question whether or not the action of the commissioner of labor was reviewable. The Appellate Division held that the action of the commissioner of labor was not final or conclusive; that his functions in respect of violations of the Labor Law on public work are "advisory to the contracting municipality," and therefore a review of his action by certiorari could not be had.

Alien Labor.— In the report for 1911, I called attention to the matter of preference in employment on public work. Reference was made to a case then pending in which the question of the right of aliens or non-citizens to work on public improvements was the issue. It was hoped that section 14 of the Labor Law was at last to be construed. Alas, we were disappointed!

The county judge of Orleans county, who had overruled the demurrer of the defendant corporation, I. M. Ludington's Sons, Incorporated, went out of office on December 31, 1911, and the

case in question did not come to trial before his successor until March, 1912. At the trial of the case, after the People had rested, the county judge granted the motion of the defendant, directing a verdict of acquittal upon grounds which had been overruled in the same court but a few months previously. It is regrettable that a minor court should have assumed the responsibility of ruling arbitrarily upon a question of such moment, thereby preventing the possibility of the presentation of the issue to a higher court.

Regarding the enforcement of the Labor Law applicable to public works, I have come to the conclusion that provision should be made for a moderate staff of investigators whose duty it would be to inspect such works for the purpose of applying sections 3 and 14; and further, to investigate accidents resulting in physical injuries to employees and other persons around or upon the works.

The commissioner of labor, under the provisions of section 20-a, is empowered to investigate the causes of accidents which occur on construction or engineering work of any description, and to require precautions to be taken so as to prevent the recurrence of similar happenings. In order to make effective this grant of power, it would be well to provide specifically that the commissioner of labor shall have power to prescribe and enforce certain regulations to govern the use of machinery and other apparatus or tools employed in the prosecution of such work, with special reference to the safety of employees.

Bureau of Factory Inspection.

Under the provisions of chapter 729, Laws of 1911, important changes were contemplated in the organization of this bureau. Provision was made therein for the appointment of eight supervising factory inspectors and for the division of the state into districts to be under the immediate supervision of such inspectors. The appropriation for the Department contained items to cover the additional expense involved in the employment of these new officials.

The question immediately arose as to the civil service classification of the supervising inspectors. Acting upon the request of the commissioner of labor, the Civil Service Commission decided that

such officials should be in the exempt class. Before the beginning of the fiscal year, however, in deference to the protest of several civic groups, the Civil Service Commission reopened the question and granted hearings. In view of this development, appointments were deferred until the Civil Service Commission again decided the issue. The matter dragged along, in spite of vigorous protest by the commissioner of labor, until the latter part of January, 1912, when it was decided that four of the positions were to be competitive and four exempt.

On February 1, 1912, the following were appointed to the exempt positions: James J. Murphy of New York City; Jeremiah J. Flood of New York City; E. Edward J. Pierce of New York City; Edward A. Bates of Utica.

Pending the establishment of an eligible list from which the other four positions might be filled, pursuant to civil service rules the following persons were given provisional appointments: Grant Earl of New York City; Hugh B. Byrne of Albany; Harry W. Sherman of Rochester; William F. Jordan of Buffalo.

The State was divided into eight districts, as follows:

District No. 1. *Headquarters — New York City Sub-Office.*

All of the borough of Manhattan lying south of a line beginning at the East river, running through the middle of 10th street to the middle of Sixth avenue, then north through the middle of Sixth avenue to the middle of 13th street, then west through the middle of that street to the Hudson river.

District No. 2. *Headquarters — New York City Sub-Office.*

All of the borough of Manhattan lying north of District No. 1.

District No. 3. *Headquarters — New York City Sub-Office.*

All of the borough of Brooklyn except that portion lying northeast of the following line: Starting at Wallabout bay, running through the middle of Division avenue to Broadway, along Broadway to Flushing avenue, along Flushing avenue to Onderdonk avenue, then northward on Onderdonk avenue, following the boundary line of Queens county to Newtown creek.

District No. 4. *Headquarters — New York City Sub-Office.*

All of Brooklyn not included in District No. 3; also the boroughs of Queens, Richmond and Bronx, and the counties of Nassau and Suffolk.

District No. 5. *Headquarters — Main Office, Capitol, Albany.*

The counties of Rockland, Orange, Ulster, Greene, Sullivan, Delaware, Schoharie, Schenectady, Saratoga, Warren, Essex, Albany, Washington, Rensselaer, Columbia, Dutchess, Putnam and Westchester.

District No. 6. Headquarters — Utica.

The counties of Montgomery, Fulton, Hamilton, Herkimer, Oneida, Lewis, Jefferson, Oswego, St. Lawrence, Franklin, Clinton, Onondaga, Madison, Cortland, Otsego, Chenango, Broome and Tioga.

District No. 7. Headquarters — Rochester.

The counties of Tompkins, Cayuga, Seneca, Ontario, Wayne, Chemung, Steuben, Allegany, Schuyler, Yates, Livingston and Monroe.

District No. 8. Headquarters — Buffalo.

The counties of Chautauqua, Cattaraugus, Erie, Niagara, Orleans, Genesee and Wyoming.

This plan of organization makes for a much closer supervision of the work of the factory inspectors. It brings the Department into closer relations with those who are subject to inspection, and facilitates the adjustment of questions that arise regarding the application of the law. Moreover, it enables persons who are interested in the enforcement of the law to get into personal contact with the State's representatives, and increases public confidence in the work of the bureau of factory inspection.

Substantial additions have been made to the field and clerical force, thereby increasing materially the efficiency of the Bureau.

GENERAL FIELD WORK.

The report of the chief factory inspector, contained in Appendix II, presents briefly the work of the bureau during the year.

The record of field work is concisely stated in Table 1. The steady growth of the work needs no comment; a casual examination of the table will reveal the direction of this growth. The increase in the number of regular annual inspections probably represents not much more than the normal growth of manufacturing industry in the state. The significant items are those that represent activity to enforce the law, and in this particular the increase over last year is 12,122 visits or inspections. This increase is shown in the record of special inspections and compliance investigations (first visits). Prosecutions increased 150 per cent over the preceding year, and when it is recalled that this feature of the work of our inspectors is the most time-consuming of all, the record is very gratifying. There is need of a still

larger force to compel obedience on the part of a large class of employers who are indifferent to the demands of law and decency.

The conservation of the productive energies of our working population is an imperative duty. This fact is being recognized more and more the world over, and New York is taking steps to be in the forefront in this work. The sanitation and safety of work places are one of the chief elements in the conservation of human resources, and the return to the State upon its investment in the Department of Labor must be incalculable.

As the danger of bodily injury is reduced by the application of safeguards, and the danger of contracting disease is eliminated through the observance of proper sanitary standards, factory operatives will be able to devote their energies to their tasks without frequent interruptions which seriously affect their productive efficiency.

It would be well for our people to understand that we have but begun to attack seriously the questions embraced in the term "industrial hygiene." Our field work henceforward must become more technical and scientific. To accomplish this, the field force must be thoroughly equipped and its personnel carefully selected.

TENEMENT MANUFACTURES.

The chief factory inspector has included in his report a statement submitted to him by the superintendent of licenses, covering the investigation of applications for tenement-house licenses and the regular inspection of such premises during the year.

Since October 1, 1904, the Department has granted 17,477 licenses; and in the same period, for various reasons, 5,682 licenses have been cancelled or revoked, leaving 11,795 in force at the end of the fiscal year.

Table 3, accompanying the report of the chief inspector, shows the relative unimportance of this feature of the work of the Department outside of Greater New York. But in that city the burden laid upon us is so out of proportion to the resources at our command for regulative purposes, as to make the pretense of supervision on the part of the State seem ridiculous.

During the past year we were able to assign ten inspectors to do the work involved in the enforcement of the tenement-house license

law. In the course of the year these inspectors in Greater New York visited, in round numbers, 13,000 tenement-houses, and observed conditions in more than 145,000 apartments therein. Work was actually being done in about 13,000 apartments at the time of inspection. No one can tell what was going on at other times, nor in how many more the occupants were engaged in manufacturing at times other than when our inspectors called.

It would be a mistake to conclude from the number of apartments used for manufacturing at the time of inspection, that tenement-house work, or "home-work" as it is called, is prevalent only in one-eleventh of the apartments subject to inspection. The probability is that this work is so intermittent, and our force is so utterly inadequate, that there is a vast amount of it that our inspectors never see.

So long as the Commissioner of Labor is charged with the duty of inspecting tenement-houses where certain kinds of manufacturing are conducted, he should be given a sufficient force of inspectors to efficiently perform that duty. Moreover, the law relating to the subject should be revised so as to include a number of lines of employment not now enumerated in section 100, for it appears that there are several kinds of work done which entail just as serious dangers to public health as those sought to be guarded against in the present law.

In order to insure thorough inspection and fairly adequate regulation, not more than 250 licensed premises should be allotted to each inspector detailed to this branch of the service in Greater New York. This would mean fifty inspectors on tenement-house work. With such a staff, manufacture in the tenements under unsanitary conditions would become extremely hazardous to the owner of articles in course of manufacture or process, as well as to the owner or lessee of the premises.

The foregoing has been penned with a view to awakening the public to a realizing sense of the duty of self-protection. It is idle to play at regulating tenement-house manufacture. The superintendent of licenses has rendered for many years most conscientious and, to the full limit of our resources, efficient services. But we have only been able to skim the surface — to relieve the strain upon the public mind incident to occasional disclosures regard-

ing unsatisfactory conditions. We must go farther and deeper before the dangers are eradicated.

What is the alternative if our people are unwilling to go in the direction indicated and to bear the financial burden involved in that course? There is but one answer. Prohibit manufacturing in tenements and dwelling-houses, except such forms or degrees of manufacturing as may be undertaken by members of families living therein for their own use. But there are questions of serious economic and social import to be considered before such a drastic step is decided upon. Is home-work necessary to sustain the families engaged in it? If it is, what will become of such families if their source of income is taken away? No amount of theorizing will sweep aside these practical questions. These people must eat in order to live. The problem is one of daily bread.

If tenement and dwelling-house manufacture is to be prohibited, as a concomitant there should be provision of workshops for the convenience of those deprived of their home rights, such shops or workplaces to be owned and administered by the state or by the municipality wherein situated. If this proposition is too radical, we must face the situation squarely and insist upon efficient regulation.

INDUSTRIAL HYGIENE.

By industrial hygiene is meant the science of safeguarding human life, limb and health as applied to industrial establishments.

The bureau of factory inspection during the past year was better equipped than ever before to undertake the solution of problems of hygiene in factories. Reference has already been made to its increased force. The appointment of a mechanical engineer was a distinct and important gain. By this means we were able to furnish to our regular field inspectors expert advice and instruction regarding difficult and perplexing questions arising in connection with the safeguarding of machinery. Every such instance made for greater efficiency in the Department. It meant improved mental equipment from which substantial results may reasonably be expected. And in addition to that, the mechanical engineer has been of service to factory owners; he has given advice as to methods of conforming to the requirements of our laws.

In a brief report printed herewith in Appendix II the mechanical engineer has given a concise statement of the work he was engaged upon during the year.

It will be noted that he was concerned with questions other than the safeguarding of machinery; but in each subject considered, he devoted his attention to the mechanical aspects thereof.

It would be idle and utterly misleading to say that we are in a position to meet the demands of present day conditions in our industrial establishments. The mechanical engineer can solve most if not all mechanical problems; but he cannot determine the presence and nature of occupational dangers that surround workers in establishments when poisonous substances are used in the course of manufacturing processes. To do this we must have experts in medicine and chemistry.

An important element in factory hygiene is proper and sufficient ventilation. During the past year the Department has done but little regarding this subject, except as it was involved in other matters, such as the removal of dust, steam, fumes and gases. We are constrained again to call attention to the absence of any statutory standard of ventilation, and to urge most strongly the need of legislative action so that the Department may be in a position to compel the maintenance of decent atmospheric conditions, without which the dangers of occupation are greatly multiplied.

There is another subject closely related to ventilation — that is, heating of factory workrooms. Strange to say, our law is silent upon this important factor in the well-being and comfort of factory workers. The law should set a minimum and maximum temperature and humidity, to be applicable from October first in each year to April fifteenth in the following year.

The Department should also have power to require the elimination of drafts due to broken windows, dilapidated and ramshackle buildings, ill-fitting and broken doors, etc.; in short, we should be given general authority to require every reasonable precaution to be taken for the protection of the health of employees.

MEDICAL INSPECTION.

The time of our medical inspector is given up largely to technical hygienic questions which from time to time arise in regard to conditions in individual plants. Under these circumstances it is obvious that one medical inspector is physically incapable of covering any considerable number of places in the course of a year, for his work being of a purely scientific character, entails careful and exact observation and ascertainment of facts in each case, so that the course of the Department, which is dependent upon his conclusions, may be definite and defensible.

The medical inspector makes several recommendations regarding grants of authority to the Commissioner of Labor, whereby conditions which now exist for which there is no remedy may be eliminated. I approve these recommendations, trusting, however, that the Factory Investigating Commission will include in its report and proposed legislative enactments such provisions as will fully meet the needs of the situation.

Progressive scientific study and investigation of all industries wherein employment is attended with certain insidious hazards should be provided for. I do not mean sporadic activity by special authority, but that the Department be scientifically equipped to undertake a thorough and systematic consecutive observation and study that will embrace all dangerous industries. To do this would call for the services of a small staff of medical men and analytical chemists. The state should not hesitate to undertake the task, for modern industry is constantly changing its processes and evolving new methods which should be carefully watched in order to insure the safety of operatives.

CHILD LABOR.

Our figures for child labor in factories show a heavy increase over the preceding year, but still slightly less than were employed five years ago. The percentage of illegal child labor also went up, but not to an alarming degree. When we come to examine the record of prosecutions it will be seen that the factory inspectors were keen and alert in detecting and punishing those who were responsible for these infractions of the law.

The Legislature of 1912 amended the law relating to employment certificates, by requiring that before such certificate is issued, every applicant must undergo a thorough physical examination, the scope of which shall be prescribed by the commissioner of labor. The record of such examination is to be made on a blank furnished for that purpose by the commissioner of labor, to whom also a duplicate of said record must be sent by the board of health or officer whose duty it is to issue employment certificates. This amendment became effective October 1, 1912. It is expected that the physical examination of children will be the means of sifting the applicants so as to reduce the number of physically unfit young children who are permitted to enter our industries.

We are gradually perfecting the machinery for the protection of children during immaturity against the burdens and hazards of industrial life. But our task is by no means finished when we say to the physically defective child, "You cannot work in a factory." What is the State's answer to the pertinent query that rises to the child's lips—"What is to become of me?" When the State, upon scientific grounds, shuts the door of the factory against a child because it is unable to meet a prescribed test, it should open a door of hope — it should take the child and help him to overcome the barriers and enable him to start right, so that ultimately he may become a useful, self-supporting citizen.

I am forced to believe that the child labor problem and the problem of "daily bread" in a great many instances are inseparably linked. Under those circumstances, the fact of the physical unfitness of numbers of children, to them and their families, is one to be avoided as much as possible. Their chief concern is the immediate need of bread. They must have bread, even if it means that the poor sickly child must somehow get into the shop. If the State detects the condition of these children and prevents them from working, how is the need for bread to be supplied? Is the State ready to assume the burden of supplying that need? If not, then we have only solved the child labor problem at the expense of the child — he pays the price in privation and hardship. There is no escape from this condition unless provision is made to meet the needs of the child during the period of his disability or debarment.

PROSECUTIONS.

The prosecution of offenders against the law is sometimes taken as the barometer that tests the efficiency of the agency of law enforcement. I do not consider that a safe test. On the other hand, it must be admitted that respect for the law increases in ratio to the number of successful prosecutions and the imposition of substantial penalties.

The record of 1912 in regard to this feature of the bureau's work (Table 2) surpasses that of any previous year in its history.

The table is divided into two general sections, namely: cases instituted in the previous year which were unfinished October 1, 1911; and cases instituted during the fiscal year covered by this report. In the first division there were 118 cases, all of which were disposed of. These resulted in 102 convictions, 5 withdrawals, and 11 dismissals or acquittals. Eighty-eight of these cases were violations of various provisions of the child labor law. Of this number, 80 resulted in convictions, 3 were withdrawn, and 5 were either dismissed or acquitted. Fines aggregating $1,010 were imposed in 44 cases, and sentence suspended in 36. The total of all fines in this division was $1,080. In the second division we have a total of 1,036 cases, 916 of which covered violations of the child labor law. Eight hundred and seventeen cases were conducted to final issue, resulting in 757 convictions, while 60 were either dismissed or acquitted. In the convictions secured, 378 were fined and 379 had sentences suspended. The number of child labor cases prosecuted to final issue was 722, resulting in 678 convictions, 344 of which were fined and 334 received suspended sentences. The total fines for all cases was $9,405, of which $8,310 was for child labor. The grand total of all fines imposed during the year in all cases brought under the factory law, was $10,485.

The great bulk of prosecutions were instituted in the counties comprising Greater New York, where the Department maintains two attorneys to handle the legal work entailed in connection therewith. The fidelity, care and efficiency of Department counsel is clearly shown in the low percentage of cases dismissed or acquitted. Under the tutelage of counsel, the inspectors are becoming more expert in gathering and presenting evidence in support of their complaints.

The record also shows that the courts are responding to the efforts of the Department to a fairly encouraging degree, although the number of suspended sentences still remains far too high. Complete reform in this direction may be expected only when the public shall have fully realized its responsibility and shall insist upon a rigid application of prescribed penalties in all cases brought by the Department. The fact should not be lost sight of that it is not the first but generally the third or fourth discovered violation that is made the basis of criminal proceedings against the offender, and that under these circumstances he is not entitled to leniency.

SUMMARY OF CHILD LABOR PROSECUTIONS.

The following table contains the record of all child labor cases prosecuted by the bureaus of factory inspection and mercantile inspection. It covers the five years ended September 30, 1912.

The attitude of the Commissioner of Labor towards this class of labor law violations is clearly set forth and needs no comment. Moreover, an examination of these figures will show that the conclusions previously expressed in this report, regarding the progressive efficiency of our legal representatives and the responsiveness of the courts when these issues are tried, were well founded.

SUMMARY OF PROSECUTIONS FOR VIOLATIONS OF THE CHILD LABOR LAWS OCTOBER 1, 1907–SEPTEMBER 30, 1912.

		Results to September 30, 1912.					
					convicted.		
Offense.	Number of cases.	Pending Sept. 30, 1912.	Dismissed or acquitted.	Withdrawn.	Sentence suspended.	Fined.	Amount of fines.
Employing child under 14 years..	1,042	33	109	12	522	366	*$8,583
Employing child under 16 without Board of Health certificate.....	1,709	62	277	31	758	581	†12,402
Employing child illegal hours.....	1,720	128	172	‡15	822	583	14,105
Failure to prove age.....	3	.....	2	1	.....	.....	.....
Employing child in prohibited occupations.....	15	.....	1	.....	6	8	235
Total.....	4,489	223	561	59	2,108	1,538	§$35,325

*Includes one case in which fine of $20 was imposed, $17 of which was remitted; and three case in which fines of $20 were imposed, $15 of which was remitted in each case.
† Includes one case in which fine of $20 was imposed, $18 of which was remitted.
‡ Contains five cases in which cash bail of $20 was forfeited in each case.
§ See notes * and †.

ACCIDENTS.

The number of accidents in factories resulting in physical injuries, reported to the Department during the year, was 50,752 — an increase of more than 6,000 over the figures for 1911. I am convinced, however, that accidents are decreasing by reason of the more vigilant care and watchfulness of our inspectors. The increase is shown because of the unceasing insistence of the bureau officials that all accidents be reported. The proprietors of factories where machinery is used (if they state that no accidents have occurred) are now required to sign a statement to that effect. This method serves to emphasize their responsibility, and in consequence there is far greater compliance with the law requiring the filing of reports.

The record of mine and quarry accidents shows a diminution in the number reported. I believe this reflects the true state of facts in these industries.

Accidents on building and engineering work are frequent and generally of a serious character. Excavations, tunnels and tunnel shafts furnished over 43 per cent of the total number reported, and the ratio of fatalities in this class is the same. The Department is not equipped nor is it clothed with specific authority to require the adoption of means of safety in the majority of the accidents in this group. Moreover, it is undoubtedly true that no amount of precaution will ever eliminate all the elements of danger which surround this class of work. Conditions arise or develop which cannot be foreseen or guarded against. Workmen often do unaccountable things or leave undone some things which bear a direct and essential relation to safety. These acts, whether of omission or commission, are wholly unknown to the parties in authority upon the works. As a consequence of such acts of carelessness or stupidity, an accident results and many are injured. Neither state nor private inspection will ever prevent such occurrences. On the other hand, many accidents happen which could be prevented if the employers would only consider the question of human safety as of equal importance with rapid progress of the work and financial returns upon their venture. Failure on their part so to do fastens upon the state the responsibility and obligation to compel the adoption of methods and the use of tools with due and full regard for the life and limb of workmen.

TUNNEL INSPECTION.

The report on tunnel inspection for 1912 is the joint production of the two tunnel inspectors. It states concisely the extent of the field and the nature of the work under inspection.

The fact that provision had been made for an additional inspector enabled us to divide the work so as to permit much closer and more rigid supervision than in previous years.

It would appear from this report that so far as compressed air work is concerned, the employers are exercising due care to prevent the injury of their employees through compressed air illness. An interesting fact is alluded to in the report, namely, that the hours of labor in pneumatic caisson work are generally less than the law permits and that this condition is due to the control or influence of the compressed air workers' organization.

The inspectors have suggested as one of the causes of the increase in accidents, the heavy employment of inexperienced labor due to the shortage in the labor market during the past season. It is true that contractors engaged upon large public undertakings have complained of their inability to secure competent labor. Therefore, it is possible that the conclusions of the tunnel inspectors are well founded. Our data relating to accidents does not show the nationality of the persons injured; hence, we are unable to test the opinion of our inspectors according to the ability or inability of the injured workmen to understand English. There can be no manner of doubt that ignorance of English and consequent failure to grasp the meaning of orders and commands of superiors on the works, has resulted disastrously to many an unfortunate alien worker.

I wish to direct special attention to the recommendations of the tunnel inspectors regarding the need of amended laws, particularly with reference to jurisdiction over open-cut subway construction. If there is any ground or reason for inspection and regulation for purposes of safety of employees of tunnel construction, which constitutes a part or parts of subway routes, the same reason obtains in support of the suggestion of the inspectors to which reference is made. The absurdity of the present situation will be clearly understood when it is realized that the same

employees may in the course of their daily labor move back and forth several times from the regulated to the unregulated zones. This would be the case, of course, only at the juncture of the open-cut work and the tunnel work.

MINE INSPECTION.

The report of the inspector of mines and quarries is contained in Appendix II.

In my report for 1911 reference was made to the appointment of the present mine inspector, and that we were looking forward to the year 1912 with confidence that his work would prove him to be an efficient and thorough official. We have not been disappointed. It is undoubtedly true that the present incumbent is the best mine and quarry inspector the state has ever had in its employ. His intelligence and industry in the performance of his difficult duties have left a deep and lasting impression upon the industries which come under his care.

In spite of greater diligence in noting dangers and in enforcing rules and regulations to minimize them, it is a tragic fact that these industries continue to exact a heavy human toll each year in the form of accidents to employees, many of which result fatally. The mine inspector states that a large percentage of all the accidents which occur are due to carelessness on the part of those in charge of the works. They evidently have greater regard for production than for the human beings whose labor aids production.

I heartily approve the suggestion of the mine inspector that the law, rules and regulations be rewritten so as to enable us to insist upon the maintenance of proper safety standards in these industries.

Factory Investigating Commission.

The Department has rendered to the Factory Investigating Commission such assistance as its resources would permit.

Dr. Charles T. Graham-Rogers, our medical inspector, and John H. Vogt, factory inspector (who is a chemist), devoted several months to an investigation of the dangers of industrial poisoning arising from the use of lead and arsenic in manufacturing processes. The special report of Dr. Rogers and Mr. Vogt will appear in the report of the Commission.

Mrs. Marie S. Orenstein and Mr. George S. Cangialosi, factory inspectors, were also detailed to perform such services as the director of investigations for the commission deemed necessary. They were in the service of the commission for several months.

The bureau of statistics also prepared special statistical data for the use of the commission.

The Department paid salaries and traveling expenses of all attachés who were called to render assistance to the commission, and our contribution to its work in this respect was quite substantial.

Bureau of Labor Statistics.

The law does not require a report upon the "operation" of this bureau, such as is specified for the other bureaus of the Department which are more distinctively administration offices, whereas the role of the bureau of labor statistics is essentially that of statistical office, and information and publication bureau. Its work cannot well be summarized and for a survey of its results the reader must be referred to the several publications of the Department in which such results appear.

The bureau of labor statistics has been included in the scope of the bills proposed by the Factory Investigating Commission for the reorganization of the Department and it is to be expected that the result will be an enlargement of the bureau's usefulness. Aside from matters which would properly be included in such legislation, I desire to recommend here two amendments of the Labor Law suggested by the chief statistician as needed for highly desirable expansion of the bureau's work. One has to do with the reporting of industrial accidents, the other with reporting of industrial diseases.

Reporting of Industrial Accidents.— The extension of compulsory reporting of industrial accidents two years ago to building and engineering work, in addition to manufacturing, mining, quarrying and tunnel construction which alone were covered prior to that time, marked an important step forward in the accumulation of adequate materials for study of the problem of industrial safety. While complete reporting in this new field is far from being accomplished, and can be attained only after years of education of employers, nevertheless results in these two years throw

important light upon this new field. For example, it is already apparent that more workmen are killed annually in this state in building and engineering work than in manufacturing industries, a general fact which could have been inferred before from foreign accident statistics but which has now been demonstrated for New York State. The significance of this demonstration lies in the contrast between the very considerable and increasing provision of regulations and inspections which has been made for years for safety in factories compared with the almost total lack of any such provision for building and engineering work outside of tunnel construction. The experience of the last two years points emphatically to the need of extending compulsory reporting of industrial accidents to other industries as soon and as widely as possible, and what is possible here is solely a question of the necessary appropriations to do the work, including, be it noted, adequate quarters in which to carry on the work. As an immediate program for extension it is suggested that a very moderate increase of resources would make possible an extension to the field of dock and longshore work, a field in which employment is known to be hazardous but for which there is almost a total lack of precise information at present.

Reporting of Industrial Diseases.— The inauguration of compulsory reporting of certain industrial diseases by physicians a year ago marked another important step forward toward securing the necessary information for the most effective work for the elimination of industrial hazards. Here again, while the problem of complete reporting in the field already specified in the law remains to be solved by a considerable period of educational work, nevertheless the first year's results are of such obvious value, in locating definitely and precisely danger points for attention, as to make clear the desirability of extension of reporting as rapidly as possible to other diseases in addition to the six now required by law.

During the past year the experiment was made of asking physicians to report voluntarily all industrial diseases coming to their notice, both those specified in the law and any others, and a pamphlet containing a list of the more important known industrial diseases was furnished physicians as an aid to such reporting of

all diseases. While the response to this invitation has brought forth some suggestive information, nevertheless the results to date have been comparatively meagre. On the basis of this experience, it is believed that the most effective and most desirable method of extending reporting is by increasing the list of specific diseases in the compulsory reporting law, proceeding on the principle which controlled the drafting of the law last year, of adding first of all those diseases which are well defined and recognized as industrial diseases. In view of the limited number of such diseases as compared with industrial accidents, an extension of the list of reportable diseases can be made with comparatively little increase in the cost of administering the law. By way of more specific recommendation along this line, there are two industrial diseases which information secured during the past year would indicate may be considerably prevalent in this state, and which might well be added immediately to the list of reportable diseases, namely, wood alcohol poisoning and "brass founders' ague."

Bureau of Mediation and Arbitration.

The report of the chief mediator is contained in Appendix III.

The functions of the bureau of mediation and arbitration have been discussed in previous reports. It is therefore unnecessary to devote any space to that subject at this time.

That there is undiminished interest in the subject of mediation and arbitration as applied to industrial disturbances which affect the relations of employers and employees, is clearly evident from the happenings of the past year. Many inquiries regarding the activities of the bureau and suggestions that it be directed to conduct public inquiries into causes of certain disputes, were received, showing that its value as an agency to compose differences was coming to be recognized more and more.

This interest in mediatorial work is further evidenced by the fact that certain civic groups and publicists have been seriously considering the advisability of extending the scope and power of governmental agencies charged with such work. This is a question of serious public import, and it deserves to receive the most careful and deliberate consideration at the hands of those who are in a position to act for the common welfare.

The report of Mr. W. C. Rogers shows that the bureau has maintained its reputation for efficiency. It conducted formal inquiry into but one dispute during the year, namely, the strike of laundry workers in Greater New York. This was fully reported in the department Bulletin for March, 1912.

I approve the recommendation of the chief mediator that the law be amended so as to provide for the bureau immediate and reliable information regarding impending and existing labor disputes.

Bureau of Mercantile Inspection.

The report of the mercantile inspector is contained in Appendix IV.

It is evident from his report that the mercantile inspector has a thorough grasp on the work committed to his bureau. His discussion of the various problems involved in the task imposed upon him is concise and convincing. He is in sympathy with his work; he knows the limitations of his staff; he recognizes the weaknesses and defects of the law; he points out where it should be amended and how, in order that the employees affected by its provisions be given their due measure of protection.

I approve without qualification every recommendation contained in the mercantile inspector's report. I would emphasize the point made in reference to the cleanliness of establishments. It is rather anomalous that we are empowered to require cleanliness in water-closet enclosures but powerless to enforce equally good conditions in parts of the premises adjacent thereto. I would also call special attention to the recommendation that the Department be authorized to require the installation of water-closets for the convenience of employees in all establishments or places that are subject to inspection under section 161. Now we can only apply that requirement to mercantile establishments.

The recommendation in reference to ventilation should receive careful consideration. It is idle to declare in general terms that "proper and sufficient ventilation" be provided and maintained. Opinions differ as to the meaning of such terms. A minimum standard of quality or quantity of air, or both, should be prescribed. If both are written in the statute, the proprietors of establishments should be compelled to elect which standard they accept and to comply therewith.

The mercantile inspector's comment on child labor should be carefully examined. It is perfectly plain that the problem of child labor in the mercantile establishments of the state must continue to receive the attention of our inspectors for many years before it can be said that it is under control. While it is true that in four years the percentage of discovered illegal employment of children has fallen off, it is yet so high as to cause genuine concern among those who seek its elimination. In this connection it might be well to remember that a considerable number of the cases of illegal employment of children recorded in the report of the mercantile inspector are what we call "Saturday cases." That is, children who attend school during the first five days of the week and who are without legal right to work, but are employed to run errands, to deliver orders, etc., in grocery stores and meat markets on Saturdays. This sort of employment is not so bad in itself, but the mischief lies in the late hours of business so prevalent on the last day of the week. The children are often found working after ten o'clock on Saturday nights.

The mercantile inspector very properly sounds a note of warning regarding the dangers surrounding the employment of children in handling and distributing liquors. Such employment should be prohibited to children under sixteen years of age.

The mercantile inspector complains that the courts of justice fail to support the Department in the enforcement of the child labor law. Suspended sentences do not hurt the wrongdoer. Therefore, when the record shows that during the past year sentence was suspended in 338 cases while a fine was imposed in only 141, it is plain that the inspector has good ground for complaint.

An intolerable situation exists in the city of Rochester. The magistrate, John H. Chadsey, has repeatedly shown his hostility to the labor law and to the agencies maintained by the state for its enforcement. One-half of our cases were dismissed by him, and in one instance he dismissed our complaint after the defendant had admitted his guilt. In other words, this magistrate sets up his opinion against the act of the Legislature, and by his conduct nullifies the law. Another peculiar feature of the procedure

in his court is the practice of holding defendants for trial in twenty or twenty-five dollars bail, and on the day of trial, when the defendants fail to appear, the cash bail is forfeited. By following this course in the disposition of cases, the defendants, although still in the city, escaped the annoyance and humiliation of appearing for trial, and the danger of the stigma of conviction was also avoided. The facts in the cases herein referred to will appear in the detailed statement of prosecutions which will be published in connection with the statistical report on the inspection of mercantile establishments.

Bureau of Industries and Immigration.

In my annual report for 1911, I directed attention to the fact that in the establishment of the bureau of industries and immigration the State of New York broke new ground and laid out a definite constructive policy regarding the alien within its gates.

The first report of the chief investigator, published in March, 1912, contained a very complete statement of the policy adopted as a result of the investigation of the problem of immigration by the commission appointed by Governor Charles E. Hughes in 1909.

The disclosures of that investigation pointed unmistakably to the need of protection for the poor and unfortunate alien against those who would defraud, exploit and oppress him. It was then realized that in order to convert him into an earnest, loyal and intelligent citizen, it was necessary to stand between him and those who for personal gain would do unto him things that would embitter him not only against those mistreating him but also against the country itself.

The scope of the bureau may be fully ascertained by a perusal of the first annual report of its activities.

The second annual report of the bureau of industries and immigration is contained in Appendix V. It is comparatively brief, but so comprehensive as to present a very clear picture of the kind of service it renders to a helpless class of people. It is a source of gratification and pride that New York has blazed the way in this important field. The admitted alien may now realize as never before that America extends to him a welcome not merely

because he promises to become a factor in its industrial life, but also because in his arrival lies an opportunity for rendering service to civilization.

I invite special attention to the report of Miss Kellor. In it she forecasts affirmative action in New Jersey and California looking to the inception in those states of similar work in behalf of aliens; and further, that Massachusetts, Illinois and Pennsylvania are moving in the same direction. At the close of the second year of its existence, the bureau finds itself with a well settled policy and plan of action and a force equal to the "minimum amount of work required by law, and all of its divisions in charge of trained experts." This is certainly reassuring, and we look forward with confidence, believing the bureau will fully realize the expectations of its sponsors and friends.

It is of first importance that the state shall continue to respond to the needs of the bureau with such liberality as its record of accomplishment shall merit. I am fully satisfied that its efficient service during the past year warrants the appropriation of sufficient funds to carry on the work.

I invite attention to the recommendations of the chief investigator:

First, as to the creation in the Department of Labor of a bureau to deal adequately with the subject of unemployment.

The Wainwright Commission, in a special report to the Legislature, recommended the establishment of employment offices or exchanges.

I believe it would be advisable in connection with this matter, to take into account the exhaustive inquiry conducted by the above mentioned commission.

Second, as to the creation of a bureau to "deal with the matter of the regulation of private employment agencies." I believe authority to undertake such work should be given to the bureau of industries and immigration, for that bureau now has power over private employment agencies in certain respects.

I approve without reservation the recommendations of Miss Kellor regarding the standardization of labor camps established and maintained within the state.

I also commend to the serious consideration of the Legislature the recommendation that the enforcement of the law requiring steamship company ticket agents to be licensed, be transferred from the comptroller's office to the bureau of industries and immigration.

Industrial Directory.

The Legislature of 1911 enacted a law, chapter 565, directing the commissioner of labor to prepare annually an industrial directory for all cities and villages having a population of one thousand or more.

The appropriations for the Department which became available on October 1, 1911, contained an item for the salary of the superintendent who was to have charge of the compilation and publication of the directory, but no other provision had been made to cover the cost of the work. It was only by diverting to the use of the superintendent one clerk intended for another division in the Department, that we were enabled on January first to make a beginning. This was supplemented on May first by the addition of a stenographer.

On September 16 two expert special agents were appointed from the civil service lists, and one was transferred from another state department, and on October first a fourth special agent was appointed from the civil service lists. In this way the division has been organized and is now busy in the preparation of material for the directory. The office of the division is at 381 Fourth avenue, New York City.

It is expected that about April 1, 1913, the first directory compiled under this law will be published. It will contain data on the industrial organization of the state and of the cities and villages therein and a list of the larger manufacturing plants in each locality.

During 1913 a special study will be made of the industrial organization of New York City and the interrelationship of the localization of factories in the city, and such local problems as transportation, building operations, and congestion of population. We expect our agents to specialize on certain topics, such as taxation, wages, water power, transportation, etc.

The work of this division, when published, will doubtless prove of great value to the commercial and industrial interests of the state as well as to its working population.

I recommend that the publication of the industrial directory be added to the functions of the bureau of statistics, and that it constitute a separate division thereof.

General Notes.

My attention has been called to the insufficient protection afforded to men engaged in the construction, alteration and repair of buildings. It has been suggested — and I fully concur in the opinion — that section 19 of the Labor Law should be amended so as to require the installation and maintenance of substantial ladders as temporary means of reaching from floor to floor. The law as it stands gives us authority only to require that ladders already provided shall be maintained in a safe condition; if ladders are not provided and the men are left to scramble or climb up as best they can, we are powerless to help them. The section should be further amended so that when men are required to work or pass over openings in the floors, it shall be the duty of the employer to provide substantial runways or scaffolds for their use, with proper rails and other safeguards.

My attention has been called upon several occasions to alleged violations of the "Hours of Service Law" which affects men engaged in train service on the several railroads within the state. The commissioner of labor is not authorized to enforce this law, for it is not a part of the Labor Law. It is contained in subdivision 4 of section 1271 of the Penal Law. If this important enactment, which sets the maximum limit of labor for men in train service at sixteen hours out of twenty-four, is to be of any benefit to the men and protection to the traveling public, it must be enforced. The Department of Labor is the proper agency to undertake the task. Such a result may be brought about if the provisions of law referred to above are transferred from the Penal Law and are made a part of section 7 of the Labor Law. Should this be done, it would be necessary also to provide the Department with the means of enforcement. I recommend that this be done.

Conclusion.

I am pleased to record my satisfaction that the entire staff of the Department has been diligent and faithful in the performance of its various duties throughout the year. I also desire to express my appreciation of the uniform courtesy of Hon. Thomas Carmody, Attorney-General, upon whom I have made frequent calls for official opinions and assistance in the performance of my duties.

Respectfully submitted,

(Signed) John Williams,

Commissioner of Labor.

APPENDIXES.

I. Financial Report of the Department.

II. General Report of Bureau of Factory Inspection.

- (*a*) Report of the Factory Inspector.
- (*b*) Report of the Medical Inspector of Factories.
- (*c*) Report of the Mechanical Engineer.
- (*d*) Report of the Tunnel Inspector.
- (*e*) Report of the Mine Inspector.

III. General Report of Bureau of Mediation and Arbitration.

IV. General Report of Bureau of Mercantile Inspection.

V. Report of Bureau of Industries and Immigration.

VI. Index of Labor Legislation in 1912.

VII. Labor Laws in force October 1, 1912.

VIII. Opinions of Attorney-General Rendered to the Department During Report Year.

APPENDIX I.

FINANCIAL REPORT OF THE DEPARTMENT.

(a) APPROPRIATIONS AND EXPENDITURES FOR THE FISCAL YEAR OCTOBER 1, 1911, TO SEPTEMBER 30, 1912.

APPROPRIATIONS.

	Balance Oct. 1, 1911.	L. 1911, Ch. 810; L. 1912, Chs. 87 and 547.	Total.	
Salaries:				
Commissioner, deputies and heads of bureaus	.....	$21,000 00	$21,000 00	
Other permanent employees	*.....	†217,965 00	217,965 00	
Temporary employees	$470 45	.....	470 45	
				$239,435 45
Traveling Expenses:				
Commissioner	517 88	1,200 00	$1,717 88	
Other officers and employees	5,074 49	50,000 00	55,074 49	
				56,792 37
Printing (including Bulletins)	644 11	10,350 00	$10,994 11	
Miscellaneous expenses	817 27	21,200 00	22,017 27	
				33,011 38
	$7,524 20	$321,715 00	.....	
				$329,239 20

DISBURSEMENTS.

Salaries:		
Commissioner, deputies and heads of bureaus	$21,000 00	
Other permanent employees	‡199,219 07	
Temporary employees	352 79	
		$220,571 86
Traveling Expenses:		
Commissioner	$948 88	
Other officers and employees	47,154 57	
		48,103 45
Printing:		
Bulletins (4)	$1,477 56	
Other printing	8,521 03	
		9,998 59
Office and General Expenses:		
Rents of sub-offices, ($5,494.48); electric current ($110.50)	$5,604 98	
Postage and transportation (postage, $5,916.20; express, $536.89; freight and cartage, $92.16; post-office box rent, $16.00)	6,561 25	
Telephone ($837.90), telegraph and messenger service ($248.83)	1,086 73	

* Of the unused balance of $4,155.80 for this item (see p. 44 of last year's report), $2,375 was reappropriated by L. 1912, ch. 547, for the salaries of four employees, seventh grade, from May 1 to Sept. 30, 1912; and $400 was expended during the fiscal year 1912 for services performed during 1911. The remainder ($1,380.80) lapsed.

† Includes an item of $400 from the appropriations for the fiscal year 1911, but expended during the fiscal year 1912 for services performed during 1911.

‡ Includes overpayment of $18.75 which was returned to State Treasurer.

Stationery and typewriter supplies (stationery, $1,185.69; typewriter supplies, $161.87; index cards and guides, $204.65)	$1,552 21	
Books, subscriptions and clippings (subscriptions, $201.50; newspaper clip ings, $195.00; legislative index and record, $150.00; books for library, $60.39; maps, $45.75; city directories, $44.00; law books, $35.75)	732 39	
Office furniture and equipment (furniture, $1,330.96; typewriters and repairs, $1,189.54; files and cabinets, $1,052.08; adding and copying machines, $867.50; electric fixtures and installation, sub-offices, $444.48; repairs to sub-offices, $138.85; miscellaneous equipment, $21.19)	5,044 60	
Other (services, $607.18; badges, $327.60; drinking water and ice, $189.78; rubber stamps, $95.85; towels, $55.36; sundries, $51.75; supplies for medical inspector, $48.57; photo prints, supplies, etc., $17.15; supplies for mechanical engineer, $8.01)	1,401 25	
		21,983 41
		$300,657 31

BALANCES.

Salaries:		
Permanent employees	$18,745 93	
Temporary employees	117 66	
Traveling Expenses:		
Commissioner of Labor	769 00	
Other officers and employees	7,919 92	
Printing	995 52	
Office and General Expenses	33 86	
		28,581 89
		$329,239 20

(b) PERSONNEL OF DEPARTMENT, AND INDIVIDUAL SALARY AND EXPENSE ACCOUNT FOR 1912.

POSITIONS AND INCUMBENTS.	Date of appointment.	Salary of position.	Amount received in 1912.	Traveling expenses in 1912.
Commissioner of Labor:				
John Williams	Oct. 4, 1907	$5,500 00	$5,500 00	$948 88
Counsel:*				
F. H. Cunningham	Jan. 1, 1908	2,400 00	2,400 00	283 19
Special Agent — Legal:				
Charles Whelan	Oct. 1, 1908	1,500 00(*a*)	1,500 00	164 54
Confidential Agent:*				
H. B. Whitney	Oct. 1, 1909	1,500 00(*b*)	1,500 00	1,140 01
Auditing Clerk:				
J. S. Lyons	Jan. 27, 1899	1,800 00	1,800 00	.....
Confidential Clerk:*				
J. H. Williams	Dec. 1, 1910	1,000 00	1,000 00	168 20
Stenographer:				
Mary L. Stiegelmaier	July 1, 1905	1,500 00	1,500 00	.....
Page:				
J. J. Shelley(*c*)	June 1, 1910	480 00(*d*)	400 00	.....
J. M. Schneider	Aug. 12, 1912	360 00	49 35	.....
			$15,649 35	$2,704 82

BUREAU OF FACTORY INSPECTION.

Factory Inspector:*†				
John S. Whalen	Mar. 28, 1911	$4,000 00	$4,000 00	$1,923 89
Assistant Factory Inspector:				
H. L. Schnur	July 22, 1907	2,400 00	2,400 00	754 38
Supervising Factory Inspectors (8):				
E. A. Bates*§	Feb. 1, 1912	2,500 00	1,666 67	236 56
H. B. Byrne	Feb. 10, 1912	2,500 00	1,604 16	191 66
Grant Earl	Feb. 16, 1912	2,500 00	1,562 50	193 20
J. J. Flood*§	Feb. 1, 1912	2,500 00	1,666 67	303 20
W. F. Jordan	Feb. 7, 1912	2,500 00	1,618 05	215 05
J. J. Murphy*§	Feb. 1, 1912	2,500 00	1,666 67	199 70
E. J. Pierce*§	Feb. 1, 1912	2,500 00	1,666 67	140 23
H. W. Sherman	Feb. 7, 1912	2,500 00	1,618 05	201 59
Mechanical Engineer:				
William Newell*	Oct. 1, 1911	3,500 00	3,500 00	472 61
Superintendent of Licenses:				
Daniel O'Leary	July 1, 1899	2,400 00	2,400 00	153 12
Medical Inspector:				
C. T. Graham-Rogers	Nov. 1, 1907	2,400 00	2,400 00	647 94
Tunnel Inspectors (2):				
Gustav Werner	Oct. 1, 1907	1,500 00	1,500 00	916 67
P. J. Steers	Oct. 16, 1911	1,500 00	1,437 50	767 69
Mine Inspector:				
W. W. Jones	May 10, 1911	1,500 00(*e*)	1,450 00	1,069 74

* Exempt.
† First deputy commissioner of labor.
(*a*) Increased from $1,400 Oct. 1, 1911.
(*b*) Increased from $1,200 Oct. 1, 1911.
(*c*) Title changed to junior clerk May 17, 1912; transferred to State Comptroller's department Aug. 1, 1912.
(*d*) Increased from $360 Oct. 1, 1911.
(*e*) Increased from $1,200 Dec. 1, 1911.
§ In the competitive class, effective Nov. 1, 1912.

POSITIONS AND INCUMBENTS.	Date of appointment.	Salary of position.	Amount received in 1912.	Traveling expenses in 1912.
Clerks (7):				
T. A. Keith*(a)	May 27, 1903	$2,400 00	$2,400 00	$188 85
A. J. O'Neill	April 3, 1894	1,500 00(b)	1,300 00	185 80
Jessie M. Sweeney	Jan. 9, 1894	1,500 00	1,500 00	.....
G. E. Dayton	April 1, 1900	1,200 00(f)	1,016 52	.....
Electa R. Lockwood	July 1, 1890	1,200 00	1,200 00	.....
Mary H. Lockwood(d)	Aug. 19, 1907	1,200 00	400 00	.....
Jennie M. Wickham	Oct. 1, 1907	1,200 00(e)	941 67	.....
Estelle Jarvis	Nov. 1, 1909	900 00	900 00	.....
Typewriter Copyists (4):				
Marion E. O'Brien	June 16, 1912	900 00	262 50	.....
Edith M. Roberts	Feb. 7, 1912	900 00	495 00	.....
Lillian Rubens	May 1, 1912	900 00	375 00	.....
Jennie I. Armstrong	Oct. 7, 1911	600 00(g)	530 00	.....
Stenographers (9):				
Winifred E. Lockrow	Mar. 10, 1902	1,200 00(c)	1,099 92	.....
Marjorie C. Boff	Feb. 5, 1912	900 00	590 00	.....
Frances E. Brindler	Feb. 8, 1912	900 00	582 50	.....
Dolores C. Brock(h)	Feb. 16, 1912	900 00	562 50	.....
Jennie A. Dillon	Oct. 16, 1910	900 00(i)	892 50	.....
Frances J. Garin(j)	Oct. 16, 1911	900 00	600 00	.....
Martha I. Harney	Mar. 4, 1912	900 00	517 50	.....
Frances B. Sheils	Mar. 4, 1912	900 00	517 50	.....
Grace E. Thompson	June 16, 1912	900 00	262 50	.....
Olga E. Horle	Oct. 7, 1911	720 00(k)	648 00	75 55
Deputy Factory Inspectors (71):				
J. S. Altschul	Nov. 26, 1906	1,500 00(l)	1,475 00	331 66
C. B. Ash	May 16, 1896	1,500 00	1,500 00	600 04
Maurice Barshell	July 1, 1906	1,500 00(m)	1,500 00	229 12
G. C. Daniels	Jan. 15, 1908	1,500 00(n)	1,387 50	88 30
W. H. Donahue	July 1, 1906	1,500 00(m)	1,500 00	496 30
M. J. Flanagan	Aug. 17, 1897	1,500 00	1,500 00	311 39
D. J. Hanlon	April 9, 1896	1,500 00	1,500 00	278 01
G. I. Harmon	April 9, 1896	1,500 00(l)	1,475 00	727 84
L. A. Havens(o)	Aug. 1, 1899	1,500 00	1,500 00	360 06
F. S. Nash	Feb. 1, 1895	1,500 00	1,500 00	894 16
Robert Northrup	Aug. 1, 1911	1,500 00(p)	1,325 00	306 31
Joseph O'Rourke	May 1, 1895	1,500 00(m)	1,500 00	465 07
W. M. Rich	July 1, 1906	1,5 0 00(m)	1,500 00	308 62
Abraham Sirota	July 1, 1906	1,500 00(l)	1,475 00	317 75
J. H. Vogt	Oct. 1, 1908	1,500 00(m)	1,500 00	509 54
E. M. Wilber	Aug. 15, 1907	1,500 00(l)	1,475 00	386 56
S. T. Wilson	July 15, 1907	1,500 00(m)	1,500 00	405 42
Anna C. Bannon	Aug. 1, 1899	1,200 00	1,200 00	248 54
Charles Basner	Nov. 1, 1910	1,200 00	1,200 00	303 22
G. L. Beckrich	Feb. 1, 1912	1,200 00	800 00	197 79

* Exempt.
(a) Position changed from assistant factory inspector to chief clerk Mar. 16, 1912.
(b) Increased from $1,200 June 1, 1912.
(c) Increased from $900 to $1,0 0 Oct. 1, 1911, and to $1,200 April 1, 1912.
(d) Granted indefinite leave of absence Feb. 1, 1912.
(e) Increased from $900 to $1,000 Nov. 1, 1911, and to $1,200 May 1, 1912.
(f) Increased from $1,000 Sept. 1, 1912.
(g) Increased from $480 April 7, 1912.
(h) Transferred from another State department.
(i) Increased from $720 Oct. 16, 1911.
(j) Granted leave of absence June 16, 1912.
(k) Increased from $600 April 7, 1912.
(l) Increased from $1,200 Nov. 1, 1911.
(m) Increased from $1,200 Oct. 1, 1911.
(n) Increased from $1,200 Feb. 15, 1912.
(o) Served as special agent from Oct. 1, 1910 to Mar. 1, 1912.
(p) Increased from $1,200 May 1, 1912.

POSITIONS AND INCUMBENTS.				
Deputy Factory Inspectors (71) — (*continued*):	Date of appointment.	Salary of position.	Amou t received in 1912.	Traveling expenses in 1912.
Jessie M. Bolin	Feb. 1, 1910	$1,200 00	$1,200 00	$187 23
C. G. Branch	Aug. 1, 1910	1,200 00	1,200 00	306 55
S. N. Brenner	July 1, 1906	1,200 00	1,200 00	274 24
H. P. Brown	Nov. 16, 1910	1,200 00	1,200 00	262 12
J. J. Bruckel	April 8, 1912	1,200 00	576 66	118 93
D. A. Burke(*a*)	Jan. 16, 1912	1,200 00	50 00(*i*)	7 21
Eunice Burton(*b*)(*c*)	Jan. 22, 1912	1,200 00	696 38	161 51
G. S. Cangiolosi	July 1, 1906	1,200 00	1,200 00	301 85
Mary L. Carbon(*b*)	Jan. 22, 1912	1,200 00	831 25	184 00
F. J. Conlon	Sept. 5, 1911	1,200 00	1,200 00	257 66
James Davie	May 1, 1895	1,200 00	1,200 00	301 72
May G. Davies(*d*)	Jan. 14, 1907	1,200 00	700 00	141 29
Rose Deimling	Jan. 22, 1912	1,200 00	831 25	216 83
Margaret Finn	July 1, 1890	1,200 00	1,200 00	237 04
W. S. Finney	Oct. 1, 1907	1,200 00	1,200 00	339 94
Lillian F. Foster	Sept. 3, 1897	1,200 00	1,200 00	117 55
Alexander Goldwin	Jan. 16, 1912	1,200 00	850 00	173 37
W. J. Gorman	May 1, 1912	1,200 00	500 00	122 00
Rebecca B. Gourlie	Sept. 16, 1896	1,200 00	1,200 00	258 76
Anna L. Greene(*e*)	Nov. 27, 1911	1,200 00	78 96	19 72
W. H. Guyette	July 1, 1906	1,200 00	1,200 00	367 33
Nathan Herzstein	Mar. 4, 1907	1,200 00	1,200 00	263 35
John Hofmann	Feb. 1, 1912	1,200 00	800 00	166 63
G. L. Horn	June 1, 1900	1,200 00	1,200 00	257 33
J. W. Ireland	Feb. 1, 1897	1,200 00	1,200 00	604 40
Kate L. Kane(*f*)	July 11, 1895	1,200 00	1,168 75	323 42
C. M. Lessells	Aug. 1, 1899	1,200 00	1,200 00	380 11
W. G. Lownsberry	Aug. 1, 1899	1,200 00	1,200 00	630 07
E. F. McDonald	June 16, 1912	1,200 00	850 00	163 60
A. J. MacKenzie	Aug. 1, 1910	1,200 00	1,200 00	326 79
A. P. Meehan	Jan. 16, 1912	1,200 00	850 00	237 10
J. F. Morgan	Oct. 9, 1911	1,200 00	1,173 33	232 19
Ella Nagle	Mar. 23, 1893	1,200 00	1,200 00	249 40
W. J. Neely	Aug. 1, 1896	1,200 00	1,200 00	262 26
Mary J. O'C. Olsen	June 1, 1912	1,200 00	400 00	110 95
Marie S. Orenstein	Jan. 15, 1912	1,200 00	853 33	400 91
J. A. Orme	Jan. 16, 1912	1,200 00	850 00	242 78
S. J. Owen	June 1, 1911	1,200 00(*g*)	1,166 64	321 86
Silas Owen	Aug. 1, 1899	1,200 00	1,200 00	360 57
William Pearson	Sept. 23, 1905	1,200 00	1,200 00	281 24
Josie A. Reilly	Oct. 1, 1896	1,200 00	1,200 00	731 03
G. E. Reynolds	Jan. 8, 1912	1,200 00	876 67	298 20
Mary G. Schonberg	Jan. 22, 1912	1,200 00	831 25	141 70
Nathan Schwartz(*h*)	Oct. 16, 1911	1,200 00	1,150 00	290 67
W. M. Service	Jan. 16, 1912	1,200 00	850 00	231 96
J. B. Sliter	Aug. 1, 1899	1,200 00	1,200 00	706 31
D. C. Sullivan	Oct. 1, 1892	1,200 00	1,200 00	299 45
M. W. Taafe	Jan. 16, 1912	1,200 00	850 00	180 29
W. E. Tibbs	June 1, 1896	1,200 00	1,200 00	848 73
G. C. Ward	April 11, 1910	1,200 00	1,200 00	306 48

(*a*) Resigned Jan. 25, 1912.
(*b*) Transferred from Bureau of Mercantile Inspection and salary increased from $1,000. (See below.)
(*c*) Granted leave of absence without pay from July 16 to Aug. 27, 1912.
(*d*) Granted indefinite leave of absence May 1, 1912.
(*e*) Reinstated Nov. 27, 1911; resigned Dec. 20, 1911.
(*f*) Granted 10 days' leave of absence July 22, 1912.
(*g*) Increased from $1,000 Dec. 1, 1911.
(*h*) Transferred from Bureau of Mercantile Inspection Oct. 16, 1911 and salary increased from $1,000. (See below.)
(*i*) Includes overpayment of $18.75 which was returned to State Treasurer.

POSITIONS AND INCUMBENTS.			Amount	Traveling
Deputy Factory Inspectors (71) — (*concluded*):	Date of appointment.	Salary of position.	received in 1912.	expenses in 1912.
Joseph Whelan(*a*)	Jan. 16, 1912	$1,200 00	$253 33	$58 15
Florence C. Wilkinson	Oct. 1, 1907	1,200 00	1,200 00	304 06
J. R. Willis	Oct. 16, 1910	1,200 00	1,200 00	265 48
T. F. Woods	Oct. 10, 1910	1,200 00	1,200 00	293 20
D. S. Yard	Aug. 1, 1899	1,200 00	1,200 00	552 92
			$133,300 85	$32,283 57
BUREAU OF LABOR STATISTICS.				
Chief Statistician:				
L. W. Hatch	Nov. 16, 1907	$3,000 00	$3,000 00	$241 05
Senior Statisticians (3):				
G. A. Stevens	June 4, 1888	2,400 00	2,400 00	156 53
C. H. Sears(*b*)	Oct. 1, 1910	2,000 00	83 33	.....
S. B. Dicker	Feb. 27, 1911	1,800 00(*c*)	1,575 00	215 50
L. D. Jones	Nov. 16, 1910	1,800 00	1,800 00	15 75
Expert:				
E. B. Patton	Jan. 9, 1911	1,800 00	1,800 00	69 69
Junior Statisticians (5):				
D. J. Naughtin	Sept. 23, 1897	1,500 00	1,500 00	233 51
E. T. Bullock	Aug. 16, 1912	1,200 00	150 00	.....
C. E. Force(*d*)	Oct. 21, 1908	1,200 00	1,200 00	386 90
D. A. Hausmann	Dec. 28, 1908	1,200 00	1,200 00	349 03
M. E. Lynch	Dec. 11, 1911	1,200 00	966 67	137 92
R. R. Sherwood(*e*)	Oct. 1, 1910	1,200 00	886 67	187 71
Special Agents (5):				
T. J. Hammill	Mar. 1, 1898	1,500 00	1,500 00	347 75
W. E. Pettit	June 7, 1898	1,500 00	1,500 00	382 38
F. H. Streightoff(*f*)	Aug. 16, 1912	1,500 00	62 50	.....
J. F. Bolin	Oct. 1, 1907	1,300 00	1,300 00	379 13
P. J. Honan	Oct. 1, 1907	1,300 00	1,300 00	337 22
D. W. O'Connor	Mar. 1, 1898	1,300 00	1,300 00	406 14
Librarian:				
P. J. B. Haegy	Feb. 1, 1907	1,200 00(*g*)	1,083 24	44 20
Clerks (2):				
Kate Shaffer	Sept. 14, 1886	1,500 00	1,500 00	.....
J. J. Angelum, Jr.	Nov. 16, 1910	900 00(*h*)	847 50	48 75
Stenographers (2):				
Caroline E. Rosenbloom	Oct. 1, 1910	1,200 00(*i*)	1,083 24	.....
May F. Duffy(*j*)	May 6, 1912	720 00	33 13	.....
Marie A. L. Maloney(*k*)	July 1, 1911	720 00(*l*)	630 00	.....
			$28,701 28	$3,939 16
BUREAU OF MEDIATION AND ARBITRATION.				
Chief Mediator*§:				
W. C. Rogers	Oct. 16, 1910	$3,500 00	$3,500 00	$876 11
Mediator*:				
M. J. Reagan	July 10, 1905	2,500 00	2,500 00	654 58

* Exempt.
§ Second deputy commissioner of labor.
(*a*) Granted three months' leave of absence April 2, 1912.
(*b*) Appointed Superintendent of Industrial Directory Oct. 16, 1911. (See below.)
(*c*) Increased from $1,200 to $1,500 Nov. 16, 1911 and to $1,800 May 16, 1912.
(*d*) Transferred from clerk Aug. 16, 1912.
(*e*) Resigned June 26, 1912.
(*f*) Resigned Aug. 31, 1912.
(*g*) Increased from $1,000 May 1, 1912.
(*h*) Increased from $720 Jan. 16, 1912.
(*i*) Increased from $900 May 1, 1912.
(*j*) Temporary appointment to fill vacancy caused by an employee being on leave of absence but salary was credited to regular fund.
(*k*) Granted leave of absence for one month without pay May 1, 1912.
(*l*) Increased from $600 Jan. 1, 1912.

POSITIONS AND INCUMBENTS.	Date of appointment.	Salary of position.	Amount received in 1912.	Traveling expenses in 1912.
Assistant Mediators (2):				
P. J. Downey*	Oct. 1, 1907	$1,500 00	$1,500 00	$541 18
James McManus*	Oct. 1, 1907	1,500 00	1,500 00	457 57
Special Agent:				
J. J. Bealin	June 26, 1896	1,500 00	1,500 00	195 99
Clerk:				
Mabel L. Crounse	Oct. 1, 1906	1,200 00(a)	1,025 00	.....
			$11,525 00	$2,725 43

BUREAU OF MERCANTILE INSPECTION.

Mercantile Inspector:				
J. L. Gernon*	Oct. 1, 1908	$2,500 00	$2,500 00	$775 50
Deputy Mercantile Inspectors (7):				
Eunice Burton(b)	July 1, 1910	1,000 00	307 22	111 20
Mary L. Carbon(b)	Oct. 1, 1908	1,000 00	307 22	82 15
P. F. Connelly	Sept. 1, 1911	1,200 00(c)	1,016 52	423 59
E. P. Dunham	Nov. 1, 1910	1,200 00(c)	1,016 52	399 24
F. L. Fisher	Oct. 1, 1908	1,200 00	1,200 00	485 32
J. P. Harsha	Oct. 1, 1908	1,200 00	1,200 00	313 99
Carrie P. Houser	Jan. 22, 1912	1,200 00(c)	709 28	195 43
Edward Quigley	Oct. 1, 1908	1,200 00	1,200 00	290 80
Nathan Schwartz(d)	Dec. 1, 1909	1,000 00(c)	41 66	.....
Minnie J. Van Zandt	Jan. 22, 1912	1,200 00	709 28	185 31
Clerk:				
Annie Schlesinger	Oct. 1, 1908	900 00	900 00	.....
Stenographer:				
May L. Honner	Oct. 1, 1908	900 00	900 00	.....
			$12,007 70	$3,262 53

BUREAU OF INDUSTRIES AND IMMIGRATION.

Chief Investigator:				
Frances A. Kellor	Oct. 1, 1910	$2,500 00	$2,500 00	.....
Counsel:				
Miles M. O'Brien, Jr.*	Oct. 1, 1911	2,400 00	2,400 00	$84 96
Bertha L. Rembaugh*(e)	.....	.....	400 00	.....
Special Investigators (8):				
Saverio Maulella(f)	May 6, 1912	1,201 00	233 49	79 38
Frank Praete	Aug. 2, 1912	1,201 00	196 82	.....
I. G. Brine(h)	Jan. 16, 1911	1,200 00	1,100 00	393 84
J. A. Cattano	Sept. 16, 1912	1,200 00	80 00	.....
Albert De Lisser	Aug. 2, 1912	1,200 00	196 66	13 73
A. E. Geannelis	Dec. 18, 1911	1,200 00	943 75	197 32
W. R. Juzuinski(f)	April 15, 1912	1,200 00	303 33	127 69
Jeannette C. Levy	May 8, 1912	1,200 00	476 67	132 23
Alfred Markus	Jan. 9, 1911	1,200 00	1,200 00	527 69
Joseph Mayper	Jan. 16, 1911	1,200 00	1,200 00	427 86
L. C. Wagner(g)	Jan. 9, 1911	1,200 00	1,100 00	627 45

* Exempt.
(a) Increased from $900 May 1, 1912.
(b) Transferred to Bureau of Factory Inspection Jan. 22, 1912. (See above.)
(c) Increased from $1,000 Sept. 1, 1912.
(d) Transferred to Bureau of Factory Inspection Oct. 16, 1911. (See above.)
(e) Temporary appointment for Aug. and Sept., 1911, but salary not paid until Oct. 31, 1911.
(f) Provisional appointment terminating July 16, 1912.
(g) Granted two months' leave of absence Sept. 10, 1912.
(h) Granted leave of absence for one month Dec. 15, 1911.

POSITIONS AND INCUMBENTS.	Date of appointment.	Salary of position.	Amount received in 1912.	Traveling expenses in 1912.
Stenographers (2):				
G. E. Hart(*j*)	Aug. 2, 1911	$1,200 00	$103 33	.....
C. M. Hoffmann	Feb. 1, 1911	1,200 00	1,200 00	$165 59
E. A. Levy(*i*)	Feb. 1, 1912	900 00	112 50	.....
Lillian Schreiber(*k*)	April 1, 1912	900 00	450 00	.....
Clerks (2):				
Mary E. Kennar	April 22, 1912	900 00	397 50	.....
Selina Rabinowitz	April 8, 1912	900 00	432 50	.....
			$15,026 55	$2,777 74
DIVISION OF INDUSTRIAL DIRECTORY.				
Superintendent:				
C. H. Sears(*l*)	Oct. 16, 1911	$2,500 00	$2,395 84	$410 20
Expert Special Agents (2):				
Louis Levine	Aug. 16, 1912	1,500 00	187 50	.....
F. F. Rosenblatt	Aug. 16, 1912	1,500 00	187 50	.....
Special Agent:				
J. H. Kirker, Jr	Aug. 16, 1912	1,500 00	187 50	.....
Clerk:				
Eleanor D. Van Vranken(*m*)	Jan. 1, 1912	900 00	675 00	.....
Stenographer:				
Anna M. Weber	May 1, 1912	900 00	375 00	.....
			$4,008 34	$410 20
TEMPORARY EMPLOYEES.				
Clerks:				
Flora M. Farrell	.....	.....	$73 96	.....
J. J. Grogan	.....	.....	75 00	.....
Edith A. Haight	.....	.....	17 33	.....
W. L. Johnson	.....	.....	86 50	.....
Stenographer:				
William Lundell	.....	.....	100 00	.....
			$352 79	.....
			$220,571 86	$48,103 45

(*i*) Temporary appointment terminating Mar. 15, 1912.
(*j*) Temporary appointment terminating Nov. 1, 1911.
(*k*) Temporary appointment.
(*l*) See also under Statistician, Bureau of Labor Statistics, above.
(*m*) Transferred from another State department.

APPENDIX II.

GENERAL REPORT OF BUREAU OF FACTORY INSPECTION.

A. Report of the Chief Factory Inspector.

Hon. John Williams, *Commissioner of Labor, Albany, New York:*

Sir:— I have the honor to transmit herewith the annual report of the Bureau of Factory Inspection, covering work performed from October 1, 1911, to September 30, 1912.

Many changes have been made in the bureau owing to the division of the work throughout the state into eight inspection districts, a supervising factory inspector having been placed in charge of each inspection district. Under the Wainwright law this division of the state into districts was made on March 1, 1912. Suboffices were opened in Buffalo, Rochester and Utica and the supervising factory inspector for the fifth, or capitol, district given quarters in the main office of the department at Albany.

Under this law twenty-one additional factory inspectors were appointed, materially increasing our field force of workers.

The diligent work of the supervising factory inspectors has done much to improve the work of our inspectors in the field. They have generally benefited the factory inspectors in the department. The supervisors have at all times kept in close touch with their subordinates and coöperated with them in every way possible. From the main office 126 bulletins and letters have been sent to the supervising factory inspectors, covering instructions, rules and regulations regarding application and enforcement of the law and the manner in which work of inspectors was to be performed.

Ten regular inspectors have been assigned to work in the bureau in charge of our superintendent of licenses. The work of these inspectors is mainly in the tenements and places affected by the provisions of section 100 of the Labor Law.

Great credit is due our inspectors and our force generally for the kind and amount of work performed during the report year just closed. It is hoped even better results will be obtained during the coming report year. It is the aim of the Department to make as frequent inspections as may be possible of the places which require constant attention in order to have lawful conditions maintained therein.

It is with much pleasure that those connected with the factory inspection bureau express their thanks and appreciation to the Commissioner of Labor, the head of the Department, for his consent in permitting special conference of all the inspectors to be held in July of this year. Articles were prepared and read by those following certain lines of work in the bureau and numerous questions asked and answered for the information of those in doubt on various points of the law. This general discussion of the application of the law and the work of the bureau of factory inspection was of immense benefit to our field force.

Special papers were read on particular phases of the work of this bureau by the following: Messrs. Cunningham, Whelan, Schnur, O'Leary, Rogers, Gernon, Hanlon, Dayton and Newell. Suggestions on advisable legislation were advanced and an interested, active part taken in the discussions by all those present. A visit was paid to a safety appliance exhibit and a careful study of the display proved of much advantage to our inspectors in their work. The success of this general conference leads me to recommend that it be established as an annual event in Department affairs. The benefit derived by the inspectors warrants the expense in my opinion.

It has been the endeavor of this department to coöperate with other bureaus and departments throughout the state and to have our inspectors report violations of the law as to sanitation and safety in which such bureaus were particularly concerned.

Our work in this direction is demonstrated by the fact that to the Bureau of Fire Prevention of Greater New York and to the State Fire Marshal we have sent special notices covering violations of the laws in some 2,449 cases.

It is gratifying to report that the anticipated results following the reorganization of the bureau have been to a great extent

realized. Under the direction of the supervising factory inspectors better discipline was maintained and more and better work done by the field force.

SUMMARY OF INSPECTION WORK.

Appended to this report are certain statistical summaries relating to the work of the bureau. Table 1 sets forth the work of the factory inspectors.

A noteworthy increase is shown in the number of inspections, investigations of compliances and work generally during the year. In the entire state 42,579 regular factory inspections were made, 15,124 covering buildings occupied by individual firms and corporations, and 27,455 factories housed in loft buildings or premises containing more than a single tenant. Our reports show that there are more than 5,000 so-called tenant-factory buildings in Greater New York alone.

The total number of bakeries inspected in the entire state was 4,955, and it was necessary to apply the "unclean" tag to ovens and utensils in 66 cases as against 61 for the year 1911.

The record of special inspections of factories, bakeries and laundries, usually made after the first or regular inspections, exceeds by 5,862 that of any previous year.

In addition to the factory and bakery inspections, 12,755 tenement houses were inspected, 55,400 compliance visits made to establishments against which orders had been issued, showing an increase of these visits of 11,263 over the year 1911.

In connection with the visits of inspection, the "unclean" tag was applied to articles manufactured in tenement houses and tenant factories in 628 instances.

The mine inspector made careful examination of 186 mines and quarries and the two tunnel inspectors 269 tunnels and caisson workings.

Number of prosecutions instituted by officials of the factory inspection bureau was 1,036, an increase of 623 over the previous year.

NEW FIFTY-FOUR HOUR LAW.

It is rather early to express an opinion as to the results of the enforcement of the fifty-four hour law, which only went into effect on October 1, 1912.

I am, however, so arranging the work along this line as to give the supervising inspectors and the factory inspectors a fair knowledge of the violators of this provision of the law in their districts.

Up to the present time there seems to be an earnest effort made by employers to comply with the requirements of the fifty-four hour law. From present indications it would appear that compliance would be general after the law has been fully explained and is fully understood by all manufacturers.

This radical change in the law has necessitated a great amount of additional correspondence but up to this time we have taken but very few cases into court for violation of this provision of the statute.

BAKERIES.

There has been considerable improvement in the general condition of bakeshops throughout the state during the year just closed. We have been able, with our increased force, to make more frequent inspections of such places. We are working, however, for greater improvement in bakeshop conditions generally and contemplating the formation of a bakery inspection squad, assigning ten inspectors to this work exclusively. Such an arrangement would enable the department to make more frequent inspections of bakeshops and more closely watch special orders issued against bakeshops found to be in particularly bad condition.

COMPLAINTS.

As stated in previous reports, the department finds it most unsatisfactory to investigate anonymous complaints. After careful attention to such matters we are not in a position to inform those finding fault of the result of our investigations. During the year 920 such complaints were received and investigated. There has been a considerable increase in the number of complaints filed for 1912, the total being 1,379.

This department welcomes complaints and is prepared to promptly investigate same and require compliance with the provisions of the law in cases where we find same being violated.

ACCIDENTS.

In our report for last year it was noted that a special effort would be made by the bureau in the ensuing year in the direction of more complete reporting of accidents. The fruits of such efforts may be seen in the fact that the total number of accidents in factories reported this year is 51,084 as compared with 45,335 last year.

The action taken to secure more complete reporting has consisted in bringing more forcibly to the attention of inspectors the importance of the matter and supplying supervising inspectors with records for their districts showing names of firms reporting accidents during the preceding quarter and number of accidents reported by each, such records on individual slips for each firm being placed in the hands of inspectors so that the latter may have definite information for any firm of such a size or in such an industry as to be likely to have accidents whether and to what extent that firm has been reporting. This method was followed for New York city after the first quarter of the present year, for New York city and Rochester after the second quarter and for the entire state after each of the other two quarters.

What has just been said will make is sufficiently clear without further caution, perhaps, that the increase in number of reported accidents this year is no evidence that accidents in factories are actually increasing in number or frequency. Similarly it should be noted that the large decrease in number of fatal accidents reported this year, as compared with last, cannot be construed as showing that such accidents are decreasing. On the contrary the difference between the two years is mainly due to exceptional figures last year because of the Asch building fire in New York city. That one catastrophe cost the lives of 146 workers, and swelled the number of fatal accidents last year to that extent beyond the normal, so to speak. This does not account for all of the decrease this year, however, the total of fatal accidents in factories this year as shown by first reports being 167 as compared with 375 last year. But, with respect to the remaining difference, it must be borne in mind that while it is probably true that reporting is more nearly complete for fatal accidents than for all accidents, there has always been considerable fluctuation from year

to year in total number of fatal accidents reported, so that it is not safe to draw conclusions from a difference for a single year.

Lately the Department has secured much better results in the reporting of accidents. We are now having accident reports tabulated by inspection districts and the supervisor kept informed as to number of firms in his district reporting and the total of reports submitted by such concerns. By following up this method during the coming year we expect to bring about a stricter observance of the law regarding the reporting of factory accidents promptly.

CHILD LABOR.

An examination of the figures in Table 5, giving the number of children found employed in factories in the different counties of the state, will afford an interesting study. The record is made up from special statements submitted by the inspectors when reporting their daily inspection work and it places at the disposal of bureau officials this data without the necessity of searching the more complex Department records.

It is shown that 14,739 children under 16 years of age were found at work during the year just closed, exceeding by 1,656 the number employed in the year 1911, viz.: 13,504 legally and 1,235 illegally. Of this number 8,870 were girls and 5,869 boys.

The totals include 123 children under the age of 14 years and in every such instance, where the evidence was of a nature to warrant prosecution, proceedings were started in the courts.

Of children illegally employed between the ages of 14 and 16 years, there was an increase of 376, showing a slightly higher percentage than in the previous year. The counties contributing particularly to this class of child workers were Albany, Broome, Dutchess, Erie, Kings, Monroe, New York, Niagara, Onondaga, Orleans, Oswego, Queens, Suffolk and Westchester. The following comparative table will prove of interest, as it shows the varying percentages of children illegally employed in the past six years:

	Per cent.
1907	15.8
1908	11.6
1909	7.2
1910	6.2
1911	5.6
1912	7.6

SAFETY.

In this report we must again repeat criticism of the wooden partitions found so very frequently in factories and workshops throughout the state. These partitions are particularly a menace in places where fire escape facilities are inadequate.

Moral suasion has in many cases brought about compliance with our recommendations as to the removal of wooden partitions, when we had no power under the law to actually require their alteration or removal.

VENTILATION.

Under the present law our field force was not called upon during the year just closed, to accord any special attention to the question of ventilation. In many instances where conditions were found to be particularly bad, investigations have been made by our medical inspector and if the violations found could be remedied under the law, steps were taken to establish compliance. We are still looking forward to improvement in this part of the law. We hope that the factory inspection bureau will be furnished with a standard in ventilation so that we may proceed along approved lines to secure better atmospheric conditions in many of the workrooms visited by our inspectors.

TENEMENT MANUFACTURES.

From the year 1904, the date of the enactment of the present tenement house law, to the close of this report, September 30, 1912, applications to the number of 19,075 have been received, all but 690 of which were for tenements located in Greater New York. During the year 1,938 applications were made, an increase of 551 over the previous year, 104 of these coming from up-state cities, Albany contributing the greater number outside of the metropolitan district. Of the total number investigated 45 were refused, 42 canceled and 27 pending investigation at the close of this report.

Licenses were canceled covering premises where work was no longer being done to the number of 3,480 and 226 revoked for unlawful conditions found to exist on investigations of our inspectors.

Total number of outstanding licenses in force in the entire state on September 30, 1912, was 11,795, showing a decrease of 1,869 over the previous year and the smallest number since the year 1908. The assignment of a special detail of inspectors to the superintendent of licenses for doing tenement house inspections and investigations in connection with the license law has brought forth excellent results.

The comprehensive report of Superintendent of Licenses Daniel O'Leary, covering the work in his charge in Greater New York, follows:

Herewith is respectfully submitted the report of all tenement-house work relating to Greater New York for the year ending September 30, 1912. Comparing this report with the reports of previous years it will be seen that there are few changes in the tenement-house employment situation.

In the year 1910 there were shown to be 20,123 persons at work under the provisions of Section 100 of Article 7 of the Labor Law. In 1911, 19,681 persons were found at work, and our very complete report for 1912 shows 20,446 persons so employed. These figures are the totals and include all those found at work in shops in tenements as well as those found at work in their living apartments.

There were inspected a total of 12,755 separate licensed tenement buildings, which contained 147,542 apartments, including shops coming under the law; but only 14,341 of these apartments were found in use and to contain 20,446 workers. One thousand four hundred and ninety-three of these apartments were used as shops (stores, etc.), in which 4,140 persons were employed — male and female — proprietors included. The actual number of living apartments found in use was 12,841, and employed in them were found 16,303 persons. According to the reports of our inspectors this is the total extent of tenement-house work in this city actually carried on in rooms or apartments used for both purposes of living and working. There were 824 persons found at work in living rooms who were not members of the family of the tenant residing therein, but were hired to assist the tenants in their work. Of these, 502 outside hands were lawfully employed in apartments used by custom dressmakers on the first and second floors, while 324 persons were illegally employed. Every violation of this character was promptly checked by having the outside hands discharged. Violations of this kind are nearly all found in apartments occupied by custom tailors — rarely in the apartments occupied by persons engaged in other lines of work.

A total of 308 children of school age were found at work in their own homes; 156 of this number attended school regularly, while 152 were reported as not attending school. All the children found employed in their homes while the schools were in session were promptly reported to the city school authorities for attention. This work is gratuitous on our part; we do it because we feel that it is important to the future of the child and we think this the proper course to pursue, law or no law.

In the matter of diseases in tenement houses, the reports filed show only forty-seven cases existing at the time of the inspectors' visits, only two of which were found in rooms or apartments in which work was going on.

I reduced by 3,706 outstanding old licenses; 3,480 were canceled where the buildings to which the licenses related were found to be free from work under the law for a year or more past, and I revoked 226 licenses where reports showed that the standard of cleanliness had fallen below that set by the Department at the time the licenses were first granted. It is my purpose to continue this treatment so as to bring the number of licensed tenement houses and the number of workers in them more in accord than they are at the present time. This should also reduce considerably the field-work, for it will be noticed that 4,691 licensed houses were inspected this year in which no person was found engaged at any employment coming under the law. This was more than one-third of the whole number of buildings inspected, consequently so much waste of the field time of the inspectors.

There were 2,305 observation cards filed by inspectors, which fact is indicative of the value of patrol work and the activity of the inspector in the field. The table shows a great increase of orders this year. The excess is wholly chargeable to the severe winter weather, which caused much frozen plumbing, and other bad conditions as a result of bursting pipes. Every order of a sanitary nature has been complied with or the license has been revoked and work stopped.

I have sent to city departments with which we have official touch 128 complaints on matters noted by our inspectors but over which we had no legal control. This service is also gratuitous on our part. I am pleased to say, however, that all such complaints have been treated very courteously by the departments to which they were sent.

Articles of wearing apparel as given in Section 100 continue to afford employment to the greatest number of people found at work in tenement homes. Of the 20,446 persons reported at work by our inspectors 15,914 persons were found employed on articles of clothing.

The general conditions under which home employment is conducted continue quite satisfactory. I have not found, nor has any inspector reported to me any conditions which could be regarded as an abuse. We find owners of licensed tenements who hate to spend a dollar for improvements in the way of keeping clean their premises. We find tenants who seem to delight in living in dirty rooms; housekeepers in charge who do not like to sweep or scrub the public parts under their charge, but we do not find any conditions dangerous to the public health.

One thing I have had called to my attention a number of times is the failure of the city to have garbage, etc., removed promptly from in front of houses in the so-called congested sections. Garbage, refuse and decayed matter is allowed to accumulate until it overflows the receptacles, spills over the walks, entrances and halls, creating unclean, foul and unhealthy conditions that are very bad, more especially for young children.

The assignment of a permanent set of inspectors to tenement-house work is very satisfactory in every way. It has made possible greater activity and promptness in handling this class of work throughout the year. It has enabled me to keep inspectors in those sections of the city where their presence and services do the most good.

The experience of the year shows that tenement-house employment is heaviest during the winter months. I may also add that the family congestion is also greater at this season. Many men out of employment "lend a helping hand" by sewing on buttons, etc., on garments, caring for the children, or in taking the work to and from the shop. No one is found engaged at this work for pure pleasure — necessity is the compelling cause, with a spirit of thrift aiding somewhat.

It may be of interest to note that there is quite a large export trade carried on by second hand clothing dealers in this city. All such goods must have the O. K. of the Health Department before they are permitted to land on the other side.

I am pleased to be able to report that I have found the work of the inspectors employed under my direction satisfactory. They have been attentive to their duties and prompt to execute all work given them. Two inspectors are engaged on new work and patrol work, while eight are engaged on regular inspection work and compliances.

The filing of registers of outside workers by manufacturers and contractors is not abated in any way.

The Monthly Bulletin is a wonderful aid in keeping work out of unlawful places, and because of this we have little trouble. It will be noted that the tagging and seizing of goods has been done pretty freely. This is because I find that method easiest and the quickest road to travel in checking any infractions of and compelling obedience to the law.

PROSECUTIONS.

The summary of the work of prosecution is divided into two tables, the first setting forth cases pending at the beginning of this report year. Of the 118 cases in this group (A), 114 were disposed of through the action of the courts, convictions being obtained in 103 and dismissals and acquittals in 11 cases. In the remaining four cases the only course left this bureau, owing to dilatory tactics of a police justice and a district attorney, was to consign them to the abandoned class.

Table B, covering the period of this report, October 1, 1911, to September 30, 1912, shows great activity on the part of our field force and counsel, 1,036 cases having been brought in the various courts of the state, the predominating source, as usual, being for infraction of the different provisions of the statute relating to the employment of children, 916 cases being credited under this head.

Of the remaining 120 cases, 49 were for failure to observe the law of safety, 30 of these being for permitting factory doors to be locked during working hours; sanitation 23; employing women

and minors illegal hours, 28; doing public laundry work in sleeping or living rooms, 6; failure to improve unsanitary bakeshop conditions, 10; permitting goods to be manufactured in tenement house in which disease was present, 1; failure to pay wages of employees weekly and in cash, 2; interfering with inspector while in discharge of his duty, 1.

Reference to the combined totals in the tables referred to shows that in the disposition of the cases tried, 71 resulted in dismissals or acquittals, 5 in withdrawals, 435 in convictions with suspended sentences, and 424 in which fines to the amount of $10,485 were imposed.

The reason for the increased number of child labor violations found and prosecuted is due mainly to the enlargement of the inspection force enabling it to cover a wider field in a shorter period of time than heretofore.

A comparison of the number of child labor cases brought into court in the past five years will prove of interest:

1908 — 445,	being	77	per	cent	of	all	court	cases.
1909 — 419,	"	80	"	"	"	"	"	
1910 — 492,	"	80	"	"	"	"	"	
1911 — 285,	"	70	"	"	"	"	"	
1912 — 916,	"	88	"	"	"	"	"	

Experience has demonstrated that it is absolutely necessary to prosecute for violations of the Labor Law in order to obtain even a semblance of respect for its provisions. Warnings are of no avail with a large class of employers, law-abiding though they may appear in every other walk of life and in their dealings with fellow men. This has never been exemplified to a greater extent than during the past year as is shown in a review of the unparalleled record of prosecutions made necessary in this state for violating statutory requirements relating to labor.

Let it be understood there will be no halt in our plain duty in the enforcement of the law and we desire to impress the careless and indifferent with the note of warning that if possible there will be found a shorter and quicker route to the courts than heretofore, if violations are found to continue.

Attention is called to the unjustifiable practice of certain judges who practically set aside the penal laws by first imposing the min-

imum penalty allowed by the statute, viz.: $20 and in the next breath remit from $15 to $18 of this penalty.

It is a pleasure to record that the attachés of the bureau generally have rendered painstaking and efficient service at all times during the year just closed. I desire to express my thanks and appreciation to the Commissioner, and to other bureau heads, to counsel, supervising factory inspectors, mine and tunnel inspectors, medical inspector, mechanical engineer and factory inspectors for the interest and attention accorded our efforts and work. Their co-operation and assistance in carrying out the laws of the Department have been of material benefit to all concerned.

Respectfully submitted,

(Signed) John S. Whalen,
Chief Factory Inspector.

1. WORK OF DEPUTY FACTORY INSPECTORS.††

Regular inspections:	1912.	1911.	1910.	1909.	1908.
Factories in separate buildings	15,124	11,733	12,178	11,571	11,854
Tenant factories	27,455	26,281	25,847	24,304	23,480
Laundries	†	2,483	2,320	2,359	1,945
Bakeries	4,955	4,996	4,156	4,853	4,101
Mines or quarries	186	128	84	121	118
Tunnel workings	*269	74	46	13	22
Tenant factory buildings**	5,215	141	150	277	125
Tenement buildings (licensed)	12,755	13,402	12,035	10,219	8,751
Total	60,744	59,238	56,816	53,717	50,396
Special inspections (factories, laundries, bakeries)	7,925	2,063	1,368	1,147	1,427
Investigations:					
Applications for license	2,072	1,761	1,835	3,179	3,195
Complaints	1,379	920	938	870	603
Compliances, first visits (number of establishments)	34,305	28,045	21,929	19,775	19,211
Compliances, subsequent visits (number of establishments)	21,095	16,092	13,531	10,865	13,237
On special orders	‡	1,659	2,967	3,074	3,473
Total	58,851	48,477	41,200	37,763	39,719
Observations:					
Tenement buildings (unlicensed)	2,305	1,687	2,125	2,135	4,736
Tunnel workings	*190	118	75	200	186
Tagging to stop work:					
Goods in tenements (§ 100)	102	78	126	104	71
Goods in tenant factories (§ 95)	526	357	469	399	446
Articles in bakeries (§ 114)	66	61	191	59	14
Unsafe machinery (§ 81)	1	.....	.....	3	11
Scaffolding (§ 19)	6	8	.....	1	3
Total	701	504	786	566	545
Prosecutions begun §	1,036	413	610	511	743

†† Compiled from daily summaries of work filed by inspectors.
* Includes caisson workings.
† Included under factories.
‡ Complete figures not available; for nine months the total was 2,815.
** Represent inspections of portions of buildings used in common by tenant factories therein, such inspections being made in connection with regular inspections of tenant factories but reported separately. In 1912 a report of such building inspection was required in every case, whereas in previous years such reports were required only when violations were found for which the owner of the building was responsible.
§ See detailed table of prosecutions below.

2. SUMMARY OF PROSECUTIONS (FACTORIES, MINES AND TUNNELS).

RESULTS TO SEPTEMBER 30, 1912.

OFFENSE. [With reference to section of Labor Law violated.]	No. of cases.	Pending.	Dismissed or acquitted.	Withdrawn.	CONVICTED. Sentence suspended.	Fined.	Fines.
(A) *Proceedings Instituted Before October 1, 1911.*							
II. SANITATION AND SAFETY:							
Failure to provide lights in halls, § 81	3	.....	.....	.....	3	.....	.....
Failure to provide lights in water-closets, § 88	2	.....	.....	.....	2	.....	.....
Failure to provide dressing rooms for females, § 88	3	.....	.....	.....	2	1	$50
Failure to clean water-closets, §§ 88, 94	4	.....	1	.....	3	.....	.....
Failure to provide sufficient water to flush water-closets, § 88	1	.....	.....	.....	1	.....	.....
Failure to clean floors, § 84	1	.....	.....	.....	1	.....	.....
Failure to whitewash walls and ceilings of stairways and workrooms, § 84	1	.....	1	.....	.....	.....	.....
Failure to provide exhaust system, § 81	3	.....	3	.....	.....	.....	.....
Failure to guard saws, § 81	1	.....	1	.....	.....	.....	.....
Failure to guard sewing machines, § 81	1	.....	.....	.....	1	.....	.....
Failure to remove bars from doors and windows, § 80	1	.....	.....	.....	1	.....	.....
Failure to unlock doors during working hours, § 80	1	.....	.....	.....	1	.....	.....
Failure to provide access to fire-escapes, § 82	1	.....	.....	.....	1	.....	.....
Failure to provide doors to open outwardly, § 80	1	.....	.....	.....	1	.....	.....
III. CHILDREN:							
Employing child under 14, § 70	25	.....	2	.....	7	16	425
Employing child under 16 without Board of Health certificate, § 70	42	.....	3	3	20	16	340
Employing child under 16 over 8 hours a day, or before 8 A. M., or after 5 P. M., § 77	21	.....	.....	.....	9	12	245
VI. WORKSHOPS IN TENEMENTS:							
Permitting goods to be manufactured in unlicensed tenement houses, § 100	1	.....	.....	.....	.....	1	20
VII. BAKERIES:							
Failure to provide pipes and hoods over oven doors and fire-pits, § 111	1	.....	.....	.....	1	.....	.....
Failure to remove water-closets from bakerooms, § 113	2	.....	.....	.....	2	.....	.....
X. MISCELLANEOUS:							
Failure to pay wages in cash, § 10	1	.....	.....	1	.....	.....	.....
Failure to pay wages weekly, § 11	1	.....	.....	1	.....	.....	.....
Total	118	.....	11	5	56	46	$1,080
(B) *Proceedings Instituted in Current Year.*							
I. ADMINISTRATION:							
Interfering with deputy factory inspector, § 43	1	1	.....	.....	.....	.....	.....
II. SANITATION AND SAFETY:							
Failure to provide lights in halls, § 81	2	.....	.....	.....	1	1	$50
Failure to provide lights in water-closets, § 88	1	.....	.....	.....	1	.....	.....
Failure to provide dressing rooms for females, § 88	8	2	.....	.....	6	.....	.....
Failure to provide washrooms in factories, § 88	1	.....	1	.....	.....	.....	.....
Failure to provide washrooms in tunnels, § 133	1	.....	1	.....	.....	.....	.....
Failure to provide sufficient or separate water-closets, § 88	7	3	1	.....	2	1	50
Failure to clean water-closets, §§ 88, 94	2	.....	1	.....	.....	1	25
Failure to provide sufficient water to flush water-closets, § 88	1	.....	1	.....	.....	.....	.....
Failure to repair water-closets, § 88	1	.....	1	.....	.....	.....	.....
Failure to whitewash walls and ceilings of workrooms and stairways, §§ 88, 94	2	.....	1	.....	1	.....	.....

(B) Proceedings Instituted in Current Year—Concluded.

Offense. With reference to section of Labor Law violated.]	No. of cases.	Results to September 30, 1912.					
		Pending.	Dismissed or acquitted.	Withdrawn.	Convicted. Sentence suspended.	Convicted. Fined.	Fines.
II. SANITATION AND SAFETY:—*Concluded.*							
Failure to provide exhaust system, § 81	1	1	.....	.....	.....	.....	.....
Failure to guard gearing, § 81	1	.....	.....	.....	1	.....	.....
Failure to guard saws, § 81	2	1	.....	.....	1	.....	.....
Failure to guard set screws, § 81	1	1	.....	.....	.....	.....	.....
Failure to guard shafting and belts, § 81	2	1	.....	.....	1	.....	.....
Permitting doors and windows to be obstructed by bars, etc., §§ 80, 85	1	.....	.....	.....	.....	1	$50
Permitting doors to be locked during working hours, § 80	30	2	2	.....	4	22	725
Failure to provide doors to open outwardly, § 80	1	.....	1	.....	.....	.....	.....
Failure to provide access to fire-escapes, § 82	2	.....	.....	.....	1	1	50
Failure to provide handrails on stairs, § 80	3	2	.....	.....	1	.....	.....
Failure to keep halls and stairs in safe condition, § 94	1	.....	.....	.....	1	.....	.....
Permitting employees to work in compressed air without physical examination, § 134-b	1	.....	1	.....	.....	.....	.....
III. CHILDREN:							
Employing child under 14, § 70	61	21	2	.....	19	19	*383
Employing child under 16 without Board of Health certificate, § 70	186	49	18	.....	56	63	†1,292
Employing child under 16 over 8 hours a day, or before 8 A. M., or after 5 P. M., § 77	657	124	23	.....	254	256	6,470
Employing child at prohibited occupation, § 93	12	.....	1	.....	5	6	165
IV. WOMEN AND MINORS:							
Employing female under 21 after 9 P. M., § 77	14	.....	2	.....	7	5	100
Employing female under 21 over 60 hours a week, § 77	7	1	.....	.....	4	2	45
Employing male minor under 18 between 12 midnight and 4 A. M., § 77	7	.....	.....	.....	7	.....	.....
V. LAUNDRIES:							
Permitting public laundry work to be done in sleeping or living rooms, § 92	6	6	.....	.....	.....	.....	.....
VI. WORKSHOPS IN TENEMENTS:							
Permitting goods to be manufactured in tenement houses in which there was disease, § 100	1	1	.....	.....	.....	.....	.....
VII. BAKERIES:							
Failure to provide proper ceilings, § 112	1	.....	.....	.....	1	.....	.....
Failure to provide new floors, § 112	4	1	2	.....	1	.....	.....
Failure to repair floors, § 113	2	.....	1	.....	1	.....	.....
Failure to provide pipes and hoods over oven doors and fire pits, § 112	2	.....	.....	.....	2	.....	.....
Failure to provide sinks, § 112	1	.....	.....	.....	1	.....	.....
X. MISCELLANEOUS:							
Failure to pay wages in cash, § 10	1	1	.....	.....	.....	.....	.....
Failure to pay wages weekly, § 11	1	1	.....	.....	.....	.....	.....
Total	1,036	219	60	.....	379	378	$9,405
Grand Total	1,154	219	71	5	435	424	$10,485

* Includes one case in which fine of $20 was imposed, $17 of which was remitted; and three cases in which fines of $20 were imposed, $15 of which was remitted in each case.

† Includes one case in which fine of $20 was imposed, $18 of which was remitted.

3. TENEMENT MANUFACTURES.

STATEMENT OF LICENSES FOR ENTIRE PERIOD OF AMENDED LAW (OCT. 1, 1904–SEPT. 30, 1912).

	New York City.	Remainder of State.	Total.
Total applications received	18,385	690	19,075
Total applications granted	16,801	676	17,477
Total applications refused (net)*	55	14	69
Applications canceled	1,502	.....	1,502
Applications pending	27	.....	27
Licenses canceled at request of applicants	5,252	131	5,383
Licenses revoked for unlawful conditions	299	.....	299
Total number of licensed premises	11,250	545	11,795

RECORD OF LICENSES FOR 1912.

	New York City.	Remainder of State.	Total.	Total, 1911.
Applications pending Oct. 1, 1911	6	.....	6	20
Applications received during year	1,834	104	1,938	1,387
Total	1,840	104	1,944	1,407
On first investigation:				
Applications granted	1,661	85	1,746	1,218
Applications refused	117	19	136	165
Applications canceled	35	.....	35	18
Applications pending Sept. 30, 1912	27	.....	27	6
On reinvestigation of applications previously refused:				
Applications granted	82	9	91	186
Applications refused again	19	.....	19	33
Applications canceled	7	.....	7	122
Total	108	9	117	341
Licenses canceled at request of licensee	3,480	.....	3,480	1,090
Licenses revoked for unlawful conditions	226	.....	226	42
Net increase or decrease in —				
Outstanding licenses	—1,963	+94	—1,869	+272
Refused applications	+28	+10	+38	—143
Canceled applications	+42	.....	+42	+140
Outstanding licenses Sept. 30, 1912	11,250	545	11,795	13,664

* A total of 4,904 applications (all but 46 in New York City) have been refused on first investigation; all except 69 of these were afterward granted or canceled on reinvestigation.

3. TENEMENT MANUFACTURES — *Concluded.*

REGISTERS OF OUTSIDE WORKERS, 1912.

MONTH.	Notifications issued.	Registers filed.	Not found or out of business.	Report no outside hands.
October, 1911	160	99	32	.....
November, 1911	267	125	9	15
December, 1911	350	176	19	18
January, 1912	280	191	9	10
February, 1912	353	149	12	31
March, 1912	286	164	11	11
April, 1912	268	123	7	12
May, 1912	414	189	17	22
June, 1912	828	344	84	41
July, 1912	642	198	27	28
August, 1912	205	159	21	19
September, 1912	111	59	5	5
Total: 1912	4,164	1,976	253	212
1911	1,658	718	74	93
1910	2,924	1,999	463	262
1909	2,947	2,292	258	342
1908	2,743	2,101	330	432
1907	5,740	1,832	327	576

4. NUMBER OF CHILDREN'S EMPLOYMENT CERTIFICATES ISSUED BY BOARDS OF HEALTH IN FIRST AND SECOND CLASS CITIES.

	1912.	1911.	1910.	1909.	1908.
New York City:*					
Bronx borough	3,851	3,783	3,186	2,450	2,101
Brooklyn borough	13,604	13,548	11,214	8,910	5,354
Manhattan borough	20,387	19,860	18,261	14,936	12,772
Queens borough	3,080	2,719	2,262	1,596	607
Richmond borough	99	127	137	120	103
Total	41,021	40,037	35,060	28,012	20,937
Buffalo	1,163	1,203	1,403	1,123	832
Rochester	1,998	1,685	1,378	1,066	556
Syracuse	1,035	802	930	856	674
Albany	192	169	258	174	110
Yonkers	*231	198	135	195	105
Troy	398	311	369	306	280
Utica	*463	479	601	406	288
Schenectady	434	331	312	204	134

* Includes " mercantile " as well as " manufacturing " establishments.

5. CHILDREN FOUND IN FACTORIES.

UNDER 16 BUT NOT UNDER 14,

COUNTY.	EMPLOYED — LEGALLY.* Boys.	LEGALLY.* Girls.	ILLEGALLY.† Boys.	ILLEGALLY.† Girls.	UNDER 14 YEARS. (Illegally employed.) Boys.	Girls.	Total children under 16.
Albany	69	88	5	7	1	.....	170
Allegany	2	6	.....	.....	.....	.....	8
Broome	30	13	23	6	.....	.....	72
Cattaraugus	35	32	.....	.....	.....	.....	67
Cayuga	67	67	.....	.....	.....	.....	134
Chautauqua	86	80	.....	.....	.....	.....	166
Chemung	5	4	.....	.....	.....	.....	9
Chenango	3	5	1	.....	.....	.....	9
Clinton	1	4	4	.....	1	.....	10
Columbia	31	61	.....	.....	.....	.....	92
Cortland	5	.....	.....	1	.....	.....	6
Delaware	6	12	.....	.....	.....	.....	18
Dutchess	59	82	14	6	4	.....	165
Erie	651	563	45	39	6	.....	1,304
Franklin	.....	1	1	.....	.....	.....	2
Fulton	40	54	1	.....	.....	.....	95
Genesee	15	16	1	.....	13	1	46
Greene	15	4	1	.....	.....	.....	20
Herkimer	27	28	1	.....	1	.....	57
Jefferson	4	1	.....	.....	.....	.....	5
Kings‡	626	1,689	67	91	5	16	2,494
Lewis	1	.....	.....	.....	.....	.....	1
Livingston	.....	4	.....	.....	.....	.....	4
Madison	14	6	.....	.....	.....	.....	20
Monroe	365	512	5	8	1	.....	891
Montgomery	81	98	.....	.....	.....	.....	179
Nassau	6	7	.....	.....	.....	.....	13
New York‡	1,725	3,235	296	344	24	20	5,644
Niagara	89	122	27	5	2	1	246
Oneida	195	325	2	2	.....	.....	524
Onondaga	138	151	6	4	3	1	303
Ontario	5	16	.....	.....	.....	.....	21
Orange	65	58	1	1	.....	.....	125
Orleans	24	3	5	7	9	4	52
Oswego	33	65	5	5	.....	.....	108
Otsego	9	5	.....	.....	.....	.....	14
Putnam	2	.....	.....	.....	.....	.....	2
Queens‡	208	337	10	11	3	.....	569
Rensselaer	52	57	1	1	.....	.....	111
Richmond‡	21	30	4	.....	.....	.....	55
Rockland	24	34	.....	3	.....	.....	61
St. Lawrence	12	48	4	.....	.....	.....	64
Saratoga	7	32	3	1	.....	.....	43
Schenectady	146	4	.....	.....	.....	.....	150
Schoharie	1	.....	.....	.....	.....	.....	1
Schuyler	1	3	.....	.....	.....	.....	4
Steuben	8	14	.....	3	.....	.....	25
Suffolk	43	51	9	10	.....	1	114
Sullivan	2	.....	.....	.....	.....	.....	2
Tioga	1	1	.....	.....	.....	.....	2
Tompkins	1	3	.....	.....	.....	.....	4
Ulster	129	94	4	.....	.....	.....	227
Warren	3	3	.....	.....	.....	.....	6

* *i. e.* with employment certificates.
† *i. e.* without employment certificates.
‡ New York City.

5. CHILDREN FOUND IN FACTORIES — *Concluded.*

County.	Employed — Under 16 but not Under 14, Legally.* Boys.	Legally.* Girls.	Illegally.† Boys.	Illegally.† Girls.	Under 14 Years. (Illegally employed.) Boys.	Under 14 Years. (Illegally employed.) Girls.	Total children under 16.
Washington	3	8	.....	.....	.....	.....	11
Wayne	4	21	.....	.....	.....	.....	25
Westchester	36	78	6	4	.....	6	130
Wyoming	11	25	.....	.....	.....	.....	36
Yates	2	.....	.....	1	.....	.....	3
Total: 1912	5,244	8,260	552	560	73	50	14,739
1911	4,465	7,756	330	406	51	75	13,083
1910	4,514	6,947	314	445	57	53	12,330
1909	4,182	5,411	323	419	44	36	10,415
1908	4,711	5,434	672	656	144	161	11,778
1907	5,999	6,483	1,212	1,123	108	57	14,982

6. ACCIDENTS REPORTED IN FACTORIES, MINES, QUARRIES AND CONSTRUCTION WORK IN YEAR ENDED SEPTEMBER 30, 1912.

Industry.	Accidents Before Oct. 1, 1911. Reported After Nov. 1, 1911. Total.	Thereof fatal.*	Accidents During Year Ended September 30, 1912. Reported Prior to November 1, 1912. Total.	Thereof — Women.	Children under 16.	Fatal cases.*
A. Factories.						
I. Stone, clay and glass products..	18	.....	1,690	46	2	18
II. Metals, machines and conveyances	141	8	30,308	699	53	57
III. Wood manufactures	32	3	2,470	47	12	8
IV. Leather and rubber goods	12	.....	1,864	134	14	4
V. Chemicals, oils, paints, etc	9	.....	2,136	73	5	13
VI. Pulp and paper	5	.....	1,740	8	1	12
VII. Printing and paper goods	41	.....	1,706	444	29	4
VIII. Textiles	10	.....	2,413	539	34	13
IX. Clothing, millinery, laundry, etc.	12	2	957	355	12	5
X. Food, liquors and tobacco	49	3	3,480	306	13	15
XI. Water, light and power	.....	.....	1,958	.....	3	15
XII. Building industry (shops)	1	.....	19	.....	.....	.....
XIII. Miscellaneous	2	2	11	.....	.....	3
Total	332	18	50,752	2,651	178	167
(b) Mines and Quarries.						
I. Mines	16	.....	397	.....	.....	14
II. Quarries	3	.....	337	.....	.....	13
Total	19	.....	734	.....	.....	27

* That is, known to be fatal at time of first report.

6. ACCIDENTS REPORTED IN FACTORIES, MINES, QUARRIES AND CONSTRUCTION WORK IN YEAR ENDED SEPTEMBER 30, 1912.—*Concluded.*

Industry.	Accidents Before Oct. 1, 1911. Reported After Nov. 1, 1911.		Accidents During Year Ended September 30, 1912. Reported Prior to November 1, 1912.			
				thereof —		
	Total.	Thereof fatal.*	Total.	Women.	Children under 16.	Fatal cases.*
(c) Building and Engineering.						
I. Excavating	65	8	9,172	.....	2	148
Thereof shafts and tunnels	*8*	.....	*4,895*	.....	.....	*69*
II. Erecting and structural work	81	11	6,680	.....	7	75
III. Finishing and furnishing	48	9	2,719	.....	1	66
IV. Wrecking	4	2	128	.....	.....	2
V. Other or miscellaneous	29	3	2,536	.....	1	48
Total	227	33	21,235	.....	11	339
Grand Total	578	51	72,721	2,651	189	533

*That is, known to be fatal at time of first report.

B. Report of the Medical Inspector.

Hon. John Williams, *Commissioner of Labor, Albany, N. Y.:*

Sir.— I hereby submit my report as Medical Inspector of Factories for the year ended September 30, 1912.

A definite plan of procedure for the year was mapped out which included a study of the various industries with a view toward classification of those of a dangerous nature, also the investigation of the various cases of occupational poisonings reported to the Department so that the exact cause might be ascertained, and a proper safeguard or remedy applied.

A special investigation for the Factory Investigating Commission was completed with relation to the cause of lead and arsenic poisoning in industries located outside of Greater New York.*

An investigation of some of the chemical industries and color works located in Greater New York was undertaken by Factory Inspector Vogt.

To the State Factory Investigation Commission, assistance was given, and upon request coöperation in investigations.

Through the courtesy of the board of directors of St. Bartholomew's Clinic, the Department was continued in the privilege of laboratory facilities in New York city for analytical and research work, and thanks are due for this gratuitous service.

Through the courtesy of President Rush Rhees and Dr. Victor J. Chambers, Professor of Chemistry, there was gratuitously placed at the disposal of the Department, the privileges of a small research laboratory situated in the chemistry building of the University of Rochester. The facilities of this laboratory, and the very kind assistance rendered by Dr. Chambers and his assistants was of inestimable value and aid during our investigation of lead and arsenic poisoning.

The Department was represented at the Joint Conference of the American Association for Labor Legislation with the American Medical Association held at Atlantic City, N. J., and displayed a small traveling exhibit of industrial hygiene. This exhibit con-

* The report of this investigation will be included in the report of the Commission, and will probably be published later in separate form by the Department.

sisted of photographs showing the methods in use in New York State factories for protecting the workers from the effects of poisons, dust, fumes, gases, vapors, and glaring light; also various means for ventilation in use. The photographs were taken by Inspector Vogt and myself of actual conditions existing during our visits to the various factories.

The Fifteenth International Congress of Hygiene and Demography held its sessions at Washington, D. C., during the week of September 23–28. The Department was represented and took part in the discussions relating to industrial hygiene. In connection with the Congress, an exhibition of photographs, models and statistics pertaining to hygiene was held from September 17 to October 5th. Upon request of the New York State committee, an exhibit was prepared by the Department. This consisted of enlarged photographs made from the ones used in the small traveling exhibit, the instruments and carrying cases used by the Department in securing samples of air and dust in the factories, and in analytical work. Also samples of dust secured in the various factories and industries represented by the photographs. The exhibit of the Department received an award of merit from the congress.

At the Eighth International Congress of Applied Chemistry held in New York city in September, the Department was represented, and presented a paper showing the activity of the Department in the field of industrial hygiene, and describing the apparatus and methods used in the work of the medical inspection of factories.

The Department was also represented at the annual meeting of the American Public Health Association which was held in Washington, D. C., September 18–20th.

During the course of routine work visits were made with Mr. Newell, the mechanical engineer, to a number of factories where the inspectors had been confronted with problems relating to the effects upon workers, of dust, fumes, gases and vapors, and the necessity for the proper means for removal.

This method of coöperation has expedited the settling of questions relating to industrial hygiene, and been of aid in the recommendation for uniform remedial measures.

ACCIDENTS.

In my previous reports, there has been discussed the question of accidents arising from the handling of acids and caustics, high tension electrical currents, and the exposure to pieces of flying metal and stone. The law is still deficient in requiring safeguards for the workers exposed to these dangers.

Many a slight accident has resulted in a fatality through absence of proper first aid. I would again recommend that all factories be required to keep a cabinet containing simple remedies for first aid to the injured, the same to be easily accessible to the employees.

During the past few years there has been introduced into the metal trades a process known as oxy-acetylene welding. I have observed this method, and find that the operators are exposed to two dangers: (1) eye trouble due to the bright glare of the flame, and (2) painful burns from sparks, and the lighted oxygen gas. As the hardest steel melts readily after a few minutes exposure to the oxy-acetylene torch one cannot doubt the result of an unprotected body coming into contact with this powerful flame. Where such operations are carried on, the workers should be provided with asbestos gloves and aprons, also a head protector fitted with colored goggles for the eyes.

In many of the large factories visited provisions have been made for an attending physician, also a nurse who remains in the factory, and makes a tour of the building several times during the day for the purpose of attending to minor accidents and recording same. This is a branch of welfare work which might well be recommended to all manufacturers, and were the Department given authority to formulate special regulations for special industries, there could in a number of industries be made a legal requirement productive of splendid results. The statistics of the factories wherein such welfare work is pursued shows a physical improvement in the workers, and a financial gain to the worker and employer.

VENTILATION.

Notwithstanding the active crusade which has been waged in favor of better atmospheric conditions in factories and workrooms, the law relating to general ventilation remains the same.

Many questions relating to ventilation of mercantile establishments have been referred to the medical inspector by the head of the mercantile bureau, Chief Inspector Gernon. As a result of the work and investigations carried out for the mercantile bureau, I would recommend that the Department be given authority to require proper ventilation of any portion of a mercantile establishment when necessary, for in a number of places the basement has been found to be the best ventilated portion of the building, the atmospheric conditions in other portions being deplorable.

At the meeting of the American Public Health Association held in Washington, D. C., a committee, consisting of Prof. W. T. Sedgwick, of the Massachusetts Institute of Technology, Prof. C. E. A. Winslow, of the College of the City of New York, Prof. Frederick Bass, of the University of Minnesota, Mr. D. D. Kimball, a Ventilating Engineer, and Col. J. L. Ludlow, (ex officio) President of the Association, was appointed to study the question of air supplies, so that the Association might be able to recommend a standard. Owing to the activities of the Labor Department in relation to the ventilation of industrial plants, and the importance of this branch of the question, the medical inspector of factories was appointed a member of the committee. The standards of purity, and methods of analyses recommended by the American Public Health Association are accepted as authoritative standards. It is hoped that the work and report of the Committee on Air Supplies will do much toward settling the question of permissible amount of air impurities, and aid in the formation of better laws relating to the subject of general ventilation.

As temperature and humidity are of importance in relation to general ventilation, it is again recommended that the Department be given authority to require the proper heating of workrooms at certain seasons of the year, and that a proper degree of relative humidity be maintained. In the textile industry it is of importance that there be a definite relation of the dry bulb thermometer to the wet bulb. This is a legal requirement in Great Britain and in the state of Massachusetts.

LIGHT.

The adequate lighting of workrooms by natural or artificial means of illumination is of paramount importance in the conservation of sight, and in relation to the hygiene of the workroom.

This subject has been discussed at length in the previous reports. Despite the prominence given the matter, the Labor Law is still deficient in specific requirements as to the proportion of window space to floor space in order to secure good natural lighting, and as to intensity and arrangement of the means used for artificial illumination. As has been shown by numerous investigations, there is a tendency on the part of the workers to crowd near to the source of natural light. The limiting of the number of occupants in a workroom proportional to the window area, as well as the requirement of a definite area of floor space per person, would in my opinion, do much to overcome congestion, and aid in securing better lighting.

WOMEN AND CHILDREN.

The conservation of the life and health of women and children employed in industrial pursuits is of the greatest economic importance. Therefore, the question is one intimately connected with the medical inspection of factories.

In my previous reports reference has been made to the relationship between occupation and infant mortality, as well as the necessity of determining a child's physical fitness to enter upon work in an industry.

At the Fifteenth International Congress of Hygiene, the question of physical fitness and the age problem was discussed in papers presented by such eminent authorities as Prof. Rotch of Harvard University, and Dr. Teleky of the University of Vienna. The following are a few extracts from the papers presented. Prof. Rotch states in a paper entitled "The Labor and Work of Children Should be Adapted to the Individual Child":

Children of the same age differ radically in the degree of their physical development. * * * Children are harmed by having their physical functions prematurely forced, since undeveloped functions should not be forced. Developed functions should be used or they are weakened. If an individual is lacking in physical development he should be withheld from work which demands a greater physical development. If an individual has a physical de-

velopment above the normal average he should be allowed to work in proportion to this development provided that his mental condition and requirements are also in the same proportion as the average.

Dr. Teleky in a paper entitled "Age Problems In Industrial Hygiene" says:

The infantile and adolescent organism in development is particularly sensitive to any surplus of labor, to every stronger requirement, and reacts through retardation in development, increased morbidity, and irreparable changes of single organs. This results equally from the experiences in children carrying on industrial labor as well as from the investigations made on school children.

Since the development of the organism progresses rapidly till the 17th and 19th year of life, we are unable to indicate a sharp boundary line from which any industrial labor should be permitted; but since the experiences of statistics of the treasury for the sick, the conditions of tubercular mortality and accident statistics show that the child of 14 to 15 years is not yet equal to the demands of industrial labor, a prohibition of gainful occupation before the completed 16th year of life seems desirable from the hygienic viewpoint. This prohibition should include home labor also.

The youth of 16 to 18 years also needs special protection; his working hours must be limited by law; night work and labor in industries dangerous to health must be forbidden. Young females in particular need extended protection.

For economic reasons, and by virtue of the necessary correlation of the regulations concerning school requirements and child labor, a higher age limit as to the admission of children to work, on the basis of medical certificate of fitness, is to be preferred. Where the age limit is rather high, special certificates of fitness for large groups of industries are superfluous, and in certain cases, have an injurious effect, since they push the weaker ones into still more unfavorable avocations (home labor, street peddling). Obligatory certificates are only in order when the question relates to particularly heavy and especially unhealthy work.

On the other hand it appears necessary that, in the choice of an avocation, the physical fitness should be considered more than heretofore. In the upper school classes, school physicians, or physicians specially appointed for the purpose should advise every individual scholar with regard to his choice of avocation. But only that physician is capable to co-operate who, from his own experience, understands the various avocations and occupations.

While the law is specific as to age requirements for entering upon work, and that the child is physically able to work, from that time on, the question of a child's physical fitness to labor in an industry, or the necessity for further physical examinations in order to conserve the health, is lost sight of.

The law defines certain prohibited occupations for women and children, but many industries dangerous to young workers are not

included. The department should be given authority to add to the prohibited list such industries as, after investigation, have been found dangerous for women or minors to engage in.

During my visits to factories, children were found who, in my opinion were not fourteen years of age, and in some cases were engaged in occupations which, in my opinion, should be included in section 93 of the law. The children so found were foreigners whose parents claimed they were unable to find the birth certificates, and so the children were certified by a physician as being apparently, fourteen years of age. This emphasizes the necessity of having official certifying physicians who have had experience in the physical examination of children.

An industry which I would recommend adding to the prohibited occupations of section 93, is that of glass blowing. During the process of glass blowing, especially that of bottle making, large quantities of fine glass particles fill the air in the immediate vicinity of the pots and moulds; boys fourteen to fifteen years of age are employed to carry the articles from the blowers to the annealing ovens, and are constantly exposed to this dangerous glass dust. Some of the boys seen by me were anaemic, of poor physique, and totally unfit for such an occupation, but under the present law they were legally employed.

During the course of the investigation relating to lead poisoning, many girls between fifteen and seventeen years of age were found handling lead, and engaged in soldering. During the process of soldering the worker is not only exposed to the danger from lead, but also from that of zinc poisoning, and there is also the added danger from carbon monoxide gas. It is an accepted fact among all authorities that young females are especially susceptible to lead poisoning. I would therefore recommend that the occupation of metal soldering be added to section 93 as a prohibited employment.

DUST, FUMES, GASES AND VAPORS.

This subject has been given careful attention, especially in those cases where the question has arisen as to proper ventilation, or adequate measures for the proper removal of dust, fumes, gases and vapors. In those cases where section 81 could not be made to apply, careful atmospheric analyses were made with a view of handling the cases under section 86.

During the year the question arose as to the danger of workers exposed to the dust of vegetable ivory, and the necessity and practicability of removing the dust from the turning lathes by means of an exhaust system. In this connection, Mr. Newell, the mechanical engineer, and myself visited every factory in the state where vegetable ivory was worked.

It was the intention to have air analyses made to determine the efficacy of exhaust systems upon the dust, but this phase of the investigation was not completed; these analyses will be made in the coming fiscal year.

As a result of the visits to the various factories, it was found that the dust is irritating to a degree, also that exhaust systems are in practical use. During the coming year the matter will be more fully investigated and a special report presented.

Another important question submitted was that of the protection of workers exposed to the acid fumes arising during the process of manufacture in the following industries: Storage batteries, manufacture of wire, manufacture of hollow, tinned, galvanized, and enamelled ware.

In the manufacture of storage batteries, the workers exposed are those in the forming room, which is a large building containing vats of sulphuric acid into which are hung the lead grids containing a lead paste.

In the manufacture of wire, and in that of the tinned, galvanized, or enamelled ware, the workers exposed are those employed in the pickling rooms, as the buildings containing the vats of acid are termed.

The principal danger is from the effects of the fumes arising from the sulphuric and nitric acid used, while in the pickling rooms, there is the added danger of the irritating effect of the hydrogen atoms liberated during the process of immersing the metal into the acid baths.

Dr. Josef Rambousek in his *Lehrbuch der Gewerbe-Hygiene* states that 3 to 4 parts sulphuric acid per 10,000 volumes of air is extremely dangerous to man. Our analyses have shown as high as 2 parts per 10,000 volumes, in a large pickling room. The dangerous nature of these fumes cannot be overestimated, for it is only necessary to note the effects of the fumes upon the metal work in

these rooms in order to get a slight idea of what it will do to the delicate human organism.

The only remedy for this danger is in the proper removal of the fumes by mechanical means, which can be accomplished in a practical manner.

The necessity for specific requirements as to the removal of dust other than that created by machinery, as well as of fumes, gases and vapors, is apparent, I would again recommend that the Department be given authority to deal with these problems the same as with those of dust created by machinery.

INDUSTRIAL DISEASES AND POISONINGS.

Sir Thomas Oliver in an address delivered before the International Congress of Hygiene said "Diseases of occupation are the outcome of civilization;" also "Trades should be freed from danger, so that in following them no risk to life is incurred."

There are many diseases traceable directly to occupations, but in the industries, or manufacturing processes, the principal danger to which the workers are exposed is poisoning; the diseases primarily due to the processes are few, while those due to the poisonings are numerous.

It is a difficult matter to classify the industries as to their dangerous nature, for in many instances the application of safeguards, or observance of proper rules of hygiene makes the industry a safe one.

As a result of my observations, the industries generally known as dangerous might be grouped under the following heads:

(a) Those which may be rendered safe by the application of guards to the machinery, efficient exhaust systems, and proper general ventilation.

(b) Those in which the danger may be minimized by the application of safeguards as in heading (a), as well as safeguards for the worker, such as goggles, respirators, special clothing or coverings for the body.

(c) Those which, in addition to the safeguards mentioned under headings (a) and (b), require strict observance to rules of personal hygiene, and constant medical supervision.

As a result of the reporting to the Department of certain industrial poisonings, attention has been called to the danger existing in various industries, which emphasizes the fact of the need for special regulations in those already known to be dangerous.

In numerous instances upon a visit being made to the factory mentioned in the reports of poisoning, other cases of poisoning were found, but as they would not visit a physician, no reports of them were made to the Department. This demonstrates the necessity of granting the Department authority to visit and make physical examinations of the workers in factories wherein cases of industrial poisoning have occurred.

Lead Poisoning. Of the 125 cases reported to the Department from September 1911 to August 1912, 51 were outdoor painters and 22 were painters employed at indoor work. In all, 65 cases were reported as occurring among workers engaged at indoor occupations. Only 8 cases were shown to be fatal in the reports to the Department, but the reports of the State Department of Health from October 1, 1911, to October 1, 1912, show 21 deaths in the state from chronic lead poisoning.

The prevalence of lead poisoning among painters is a well established fact. Reviewing the statistics of reported cases in Great Britain, the white lead industry reports the largest number of cases with the china and earthenware industry next, yet in this State we have not one case reported as occurring in the pottery industry; and this despite the fact that in my visits to this industry workers were seen who undoubtedly were leaded.

In the Department reports are found reported fifteen cases as occurring among workers in electric batteries, and six engaged in electric power stations (repair of batteries). Upon investigation I found that all these cases were among workers engaged in handling in some manner the grids of storage batteries; these grids are of lead and contain a lead paste. From this it may be seen that nearly one-third of the reported cases (exclusive of outdoor workers) occurred in the storage battery industry.

As a result of my investigation of the cases reported to the Department, one fact became prominent, that of the necessity for educating the workers exposed to lead poisoning, in the observance of strict personal hygiene.

In many of the white lead factories physicians are employed to make periodical examination of the workers, but as no statistics are kept, the value of these examinations are very greatly lessened, and the question as to the really dangerous nature of the industry is obscured.

Arsenic. Arsenical poisoning occurs chiefly among workers engaged in the manufacture of paints and colors, especially the greens such as Paris (Scheele's) green and Vienna (Schweinfurth's) green.

But three cases are reported as occurring among workers in the paint and color industry, and yet in one factory visited I found three cases, only one of which was reported after my visit. Upon the request of one of the factory inspectors I visited another factory in order to see a worker who, from a description given me by the inspector, was undoubtedly suffering from arsenic poisoning. The worker had left the day before my arrival, and the case was not reported.

Among the reported cases was that of a tannery worker. An investigation was made of a number of tanneries, but in none of the processes was arsenic found to be used, and practical tanners of many years experience stated that they never used arsenic in any form.

In *Poisons Industriels* published in 1901 by the French Department of Commerce and Labor, leather dressers are included in the list of occupations wherein there is a danger from arsenic poisoning, but it is explained that the danger lies in the handling of imported skins which have been preserved by means of arsenical preparations. This applied to skins obtained from Australia, New Zealand, Tasmania, and the Platte.

At present I can find no similar cases reported or any further literature on the subject; hence it must be inferred that the poisoning may have had its origin outside of the tannery.

Mercury. But one case of mercurial poisoning was reported. The case was a fatal one. The occupation given was that of pressmaker in the rubber business. Owing to the fact that the place of employment was not given in the report no investigation could be made as to the cause or means of poisoning.

So far I have been unable to find any reports of the occurrence of mercurial poisoning in the rubber industry. In the Twentieth Century Practise of Medicine, under Diseases of Occupation by Dr. J. H. Lloyd, the following statement is to be found: "Vermilion is much used as a pigment. It is sulphide of mercury, * * *. Vermilion is used by dentists for coloring the plate for holding false teeth. When introduced for this purpose the question arose whether the metal could be absorbed in poisonous quantities. Prof. S. H. Guilford, of Philadelphia, tells me that no authentic instance is on record of such poisoning."

As a result of my investigations into the manufacture of rubber. I have been unable to find any mercurial compounds in use.

It is a well known fact that workers are specially liable to mercury poisoning in the following industries: Hatter's fur, especially the carrotting process; thermometers; chemical trades where the chloride, sulphide and oxide are made. These industries have been visited by me, and in many of the plants workers were found suffering from mercurialism. As the majority of the help are foreigners, and do not consult a physician except in extreme cases, we have no statistics as to the cases. This again emphasizes the necessity for granting the Department authority to make physical examinations of workers engaged in certain dangerous trades or industries.

Anthrax. Three cases were reported but it was impossible to trace definitely the source of infection. The first case was reported as an accident by the proprietor of a tannery, the occupation of the worker being given as that of a beam hand. Shortly after another accident report was received from the same tannery; this reported the amputation of a finger from the hand of a beam hand, as a result of being poisoned by hairs; this undoubtedly was another case of anthrax poisoning. A New York City hospital reports a case as occurring to a clothing salesman, but the source of infection was unknown. There was also reported the case of a baggage master (on a steamship pier) suffering from anthrax, the manner in which infection occurred being very obscure. These last two cases are interesting, and show that the infection may occur in the most indirect manner.

The small number of anthrax cases reported may be due to the fact that it is a disease seldom seen by the physician in general practice, and so slight cases might not be recognized. The reports of Dr. Legge the British medical inspector of factories, shows a number of cases as occurring among workers in the following occupations: woolen industry (wool combing, wool sorting, carding, carpet manufacture, blanket manufacture); workers in horse hair (hair drawers, curlers, weighers, mat makers, mixers, stuffing boxing gloves, brushmakers).

Anthrax is an infectious, virulent disease, of which very little is known by manufacturers who handle material liable to be the source of infection. The Department should be given authority to compose a circular of information, calling attention to the danger and explaining the methods for prevention, these circulars to be sent to the manufacturers.

Cyanide. Poisoning by means of cyanogen and its compounds usually occurs in connection with the electroplating industry. Two fatal cases of poisoning from cyanide of potash were reported to the Department. The fumes arising from vats containing the cyanide are extremely dangerous to life and should be removed by means of an exhaust system. The presence of this danger emphasizes the need of a section in the law containing specific requirements for the removal of fumes, etc.

Prof. W. Gilman Thompson in a paper on occupational diseases stated that there was danger of arsenic poisoning from furs, and that an American chemist had upon analysis of a number of samples of fur found considerable arsenic present. The following is taken from Sir Thomas Oliver's Disease of Occupation: "Arsenic is used in the curing of certain furs. Out of forty-two samples of furs recently examined by American chemists, eleven were found to be heavily loaded with arsenic. The destructive effects upon insect life are well known. Presumably, therefore, the arsenic is added to the furs as a preservative. The amount of arsenic found exceeded the one grain per square yard allowed by American law; it often reached 170 grains. The presence of such large quantities of arsenic in furs that are to be worn and in rugs for rooms is very dangerous."

There were reported to the Department five cases of dermatitis (inflammation of the skin) as occurring among fur workers. In view of the statements made, I deemed it advisable to make an investigation as to the question of the dermatitis being on arsenical poisoning. Accompanied by Inspector Vogt a number of factories were visited. Every known process in connection with the industry was looked into, from the handling of the raw skin to the finished product, and included dressing, dyeing, piecing together of dyed skins (including remnants) and sewing, both band and machine. Samples of fur were secured from each factory visited, and represented each process the fur passed through. Among the samples were portions of raw skin, and the small pieces of remnants sold the smaller manufacturers of cheap articles. Careful inquiries were made in each factory, and the proprietors all agreed in saying that no arsenic was used, or had they heard of it being used, some even stating that it might injure the fur. In the process of dyeing it was stated that nothing but aniline dyes were used. A very careful analysis of the samples showed no traces whatever of arsenic.

Wherever possible, an examination was made of the worker. These physical examinations were superficial and not as thorough as I would have wished for. Some 150 workers were seen, and of these about 5 per cent had a dermatitis of the hand. The occurrence of the dermatitis was limited to the workers who stretched and pieced the skins, pinning them on boards preparatory to sewing the skins together. The greater number of cases were found in the small shops where a cheap grade of furs as well as remnants of the good furs are made up. During the process of stretching and piecing, the skins are kept moist, this being accomplished by the operator constantly dipping his hand in water and dampening the under, or pelt side of the skin. The water used is kept in a cup or small vessel upon the work bench. Samples from these receptacles were obtained and the water analyzed. No arsenic was found to be present.

The workers do not wear gloves or any protection for the hands as they claim it would interfere with their work. It was stated that upon remaining away from this character of work for some time, such as between seasons, the dermatitis disappeared, but shortly after returning to work it again manifested itself.

As a result of the investigation, I am of the opinion that the dermatitis is due to the damp character of the work as well as irritation from the dye stuff used. In handling the skin with wet or damp hands, a portion of the dye dissolves and remains on the skin, by which there is probably some slight absorption by the skin, and as the anilines are irritating, a dermatitis follows.

The following is from Dr. Legge's report to the Chief Factory Inspector of Great Britain, year 1911: "Dermatitis and eczema are produced by contact with several of the aniline colors — chrysoidin, Bismarck brown, paranitandline reds, and others, * * *. In all the 16 cases reported, dermatitis of the face, arms, armpits and such parts of the body as are likely to be bathed in sweat, were the characteristic symptoms unaccompanied by any noticeable changes in the blood." This would seem to bear out the theory of the dermatitis being caused by anilines and not by arsenic.

The increased activities of the Department in the field of industrial hygiene, the results obtained, and the necessity of facilities to pursue still further work of an analytical character demonstrates the need of a permanent Department laboratory. I would, therefore, again respectfully recommend that an appropriation be made for such an addition to the Department.

Respectfully submitted,

(Signed) C. T. Graham-Rogers,

Medical Inspector of Factories.

C. Report of the Mechanical Engineer.

Hon. John Williams, *Commissioner of Labor, Albany, N. Y.:*

Sir.— I hereby submit my report as mechanical engineer of the Bureau of Factory Inspection for the year ended September 30, 1912.

During the year I made 250 special inspections of factories, investigated, calculated, and reported upon the strength of different types of fire escapes, prepared an exhibit for the State Fair at Syracuse, prepared an exhibit of several hundred photographs of safety devices which are on view in the New York City office, and prepared a pamphlet on "Specifications for the Design, Construction, and Operation of Exhaust Systems for Grinding, Polishing, and Buffing Wheels." In addition, a considerable amount of my time was taken up by the inspectors consulting me at the office in regard to safety devices, exhaust systems, ventilation, etc.

Most of the 250 special inspections referred to above were of conditions referred to me by inspectors who wished my advice as to the best means of remedying them. The following partial list will serve to give an idea of the ground covered by the same:

Guards for steam and gas engines, rotary converters, punch presses, drills, lathes, printing presses, wall paper printing machines, paper making machinery, various woodworking machines, emery wheels, buck-tail machines in the glove industry, fur cutting machines, paper-box corner stayers and corner cutters, roll-feed machinery of various kinds, laundry machinery, elevators, etc., etc.

Dust removal from emery and buffing wheels, tumbling barrels, sand-blast rooms, button making machinery, textile machinery, etc.

Removal of fumes from brass and iron foundries, pickling vats, lacquer and paint spraying, etc.

General ventilation of several plants.

Lack of space will prevent my commenting on more than a few of the above conditions.

GLOVE INDUSTRY.

In the first part of the year I made an investigation into the conditions under which so-called "buck-tail" machines were being operated in some eighteen plants in Gloversville and Johnstown,

the seat of the glove industry, as the deputy inspector in that district had reported that he considered the removal and replacement of the belts several times a day dangerous, and I fully concurred with him in that opinion. These machines are used for dressing the skins from which the gloves are made, and resemble an emery wheel. The wheel is of wood with an oval surface and is coated with emery, the skins being pressed on the top of the wheel by the operator to remove particles of dry flesh which have adhered thereto. It is customary for the operator to stop a wheel several times a day to re-emery the surface. This, of course, involved removing and replacing the belt, and as the line shaft in such work runs at several hundred revolutions per minute, there was danger of the operator being caught in the belt, particularly when replacing it, although in some of the plants they slowed down the engine when replacing a belt. The five remedies which appeared most feasible were (1) the use of a loose pulley on the buck-tail shaft, (2) the use of a loose pulley on the line shaft, (3) the use of a clutch on the buck-tail shaft, (4) the use of a clutch on the line shaft, and (5) a series of rollers so mounted, concentric with the line shaft, that the belt could be shifted from the line shaft pulley on to these rollers. All of the above methods have now been tried out with the result that the third one has probably proven the most satisfactory, and practically all of these plants have now adopted one of the above methods to obviate the old and dangerous habit of removing and replacing these belts several times each day.

PUNCH PRESSES.

I noted during the first part of the year that less attention was being paid by the inspectors to the guarding of punch presses or stamping machines, as they are also called, than to other dangerous machines such as circular saws, jointers, etc., although statistics showed that the former caused even more accidents than either of the latter. I attributed the reason for this to the fact that punch presses are in general more difficult to guard than saws or jointers, without interfering with the work, and also to the fact that only comparatively recently have really efficient guards for punch presses been placed upon the market. Again, the best guard for a punch press must be determined with special reference to the kind of work, and where different kinds of work are done on the same press, two different types of guard may be neces-

sary if the press is to be guarded at all times. As a result of the inspectors' attention being drawn to the absolute necessity of guards on punch presses and showing them how it can best be done, orders to guard the same are now practically general, though in some cases it is extremely difficult to guard them satisfactorily without interfering somewhat with the work. A number of employers have also fitted their presses with devices to prevent "repeating" in addition to other guards.

LATHES.

I have encountered considerable opposition on the part of a few employers to the guarding of the change gears and back gears of lathes. That these gears are a source of danger and should be guarded is shown by the fact that in one district alone in Great Britain (there are six inspection districts altogether), in the year 1911, change gears of lathes caused twenty accidents and back gears seventeen, according to the annual report of the Chief Inspector of Factories and Workshops. The fact that some employers state that they have never heard of an accident caused by such gears, therefore, cannot be considered any argument against such guards.

CIRCULAR SAWS.

Guards for circular saws frequently meet with more opposition from the workmen themselves than from the employer, and I have found such guards removed more than any others. The fact that many accidents occur at the front of the saw, even with guards in place, shows the necessity of using a push-stick to push the wood through instead of doing it with the fingers. Accidents which occur under the saw bench show the necessity for guarding the saw underneath the table. If not part of the guard itself, a riving knife or "splitter" should be used in conjunction with the guard wherever the nature of the work will permit. This will prevent the board "cramping" and being hurled by the saw and will prevent injuries to fingers at back of saw. Many accidents doubless occur from failure to adjust the guard properly, if at all, after changing from a larger to a smaller saw.

JOINTERS.

These guards are also found removed by the operator but not so frequently as saw guards. A pusher should be used when planing short pieces. The use of the circular cutter block, which is

increasing all the time, in place of the old square head block, is doing much to reduce the number and severity of accidents. In my opinion, a bridge type or swinging type guard should still be used in connection with the circular cutter head.

INSPECTOR ASSIGNED TO ASSIST ME.

The demand on my time for special inspections of places where there are involved questions of safeguarding a few particular machines, remodeling small exhaust systems, etc., referred to me by the inspectors, finally became so great that Mr. M. J. Flanagan, one of our most experienced inspectors, was assigned to me to make such special inspections as I might turn over to him. This has given me more time toward the latter part of the year to devote to the preparation of the pamphlet on exhaust system specifications and to other pamphlets which I hope to complete during the coming year.

EXHIBIT AT STATE FAIR.

I devoted a considerable amount of time to preparing and arranging the exhibit of the Department of Labor at the annual State Fair held at Syracuse, September ninth to fourteenth. Photographs of safety devices for various machines were exhibited together with a few machines in actual operation, the latter including a guarded and an unguarded punch press, a properly mounted and guarded emery wheel, and an improperly mounted and unguarded emery wheel, a circular saw guarded, and a model of a freight elevator equipped with proper safeguards. In addition to the above, statistical charts of accidents in factories and in engineering work, and other statistical exhibits were shown, this section of the work being in charge of Mr. Carlton H. Sears, Superintendent of the Industrial Directory.

PHOTOGRAPH COLLECTION.

I have found my collection of photographs of safety devices very useful not only for showing to inspectors and others who may come into the office but also for sending to employers throughout the State who wish to safeguard their machinery but who are not acquainted with the best means of doing so.

EXHAUST SYSTEM SPECIFICATIONS.

The inefficiency of many exhaust systems for removing dust from emery and buffing wheels early led me to make an investigation of such exhaust systems. In many cases I found such errors in design as making the main suction duct much too small and not infrequently the same size throughout its length, running the branch pipes into the main at right angles and sometimes at the bottom of the main, too small a fan, too small a discharge pipe from the fan, too small a cyclone separator or dust collector, etc., with the result that the suction is often entirely inadequate to carry off the dust which then clogs the ducts and spreads about the room to the injury of the workmen's health.

After making a thorough study of the whole problem and spending considerable time making tests on a number of exhaust systems, I prepared the pamphlet referred to in the second paragraph of this report, which is now in the hands of the printer. It is planned to have the inspectors leave a copy of the same with any employer whom they may order to install such an exhaust system and in this way to protect employers from spending their money on useless exhaust systems installed by ignorant or careless contractors, which cannot be accepted by this Department. This pamphlet will specify the minimum sizes of branch pipes that may be used for different sized wheels, the minimum sizes of main ducts and fan, minimum radius of elbows, minimum suction required, etc.

Respectfully submitted,

(Signed) WILLIAM NEWELL,
Mechanical Engineer.

D. Report of the Tunnel Inspectors.

Hon. John Williams, *Commissioner of Labor, Albany, N. Y.:*

Sir.— We hereby beg to submit our annual report on tunnel inspection for the fiscal year ending September 30, 1912.

Differing from other years, tunnel construction has been given more attention; inspections have been more thorough and frequent, because of the addition of another inspector. To facilitate inspections, the work in the state was divided into two territories, viz.: One section comprised all the tunnel construction done in Greater New York, with the exception of the most northern contract of the city pressure tunnel; the other territory included the work done in the remainder of the state. Each territory was covered alternately by one of the inspectors for a period of three months.

Compressed air work was, with but a few exceptions, confined mainly to building foundations work. Six shafts of the extreme southern contract of the New York City Aqueduct were sunk through soft ground to rock by means of compressed air. These shafts carried the highest pressure recorded in the state for the year, the pressure in one shaft reaching 46 before rock was encountered. The care of the men on this particular section was good. One man died of caisson disease here,— the only one reported in the state. The hours of work under the various air pressures here, and on all other caisson work, differed from the hours given in the State law,— the Air Workers' Union scale being adhered to. This scale has always been used on all pneumatic caisson work, and is more lenient than the State law, inasmuch as the hours of labor are less.

Tunnel excavation work was confined mainly to New York City. The work was exceedingly heavy in comparison with the work done in the preceding year. Labor shortage, due to the vast amount of this work going on at one time, necessitated the hiring of inexperienced labor on many contracts. To these causes a good deal of the apparent increase in accidents is due.

We find it extremely hard to obtain all the facts after an accident causing death has occurred. This is due partly to the tardiness in receiving such reports of death, by the inspectors, and also to the fact that when an investigation is made after the receipt of such report, usually but one version of the supposed facts are learned. With this in view, we would suggest that a paragraph be incorporated in the law, that in the event of an accident, causing death, on tunnel construction, the coroner having jurisdiction in the locality wherein such death may occur, notify this Department of the time and place of his inquest, and that the Department be represented at the inquest by one of its inspectors. This would give the inspector information as to exact causes of accidents, which could not be readily obtained in any other manner.

We feel it our duty, and suggest most earnestly the revision of the present laws affecting the construction of tunnels and sinking of shafts in this state. The present laws, while wide in their scope, are not based on any standard, and for this reason it is hard to obtain compliances with orders, and where prosecution becomes necessary, it is a difficult matter to obtain a conviction, and even if found guilty, the penalty is so light that the contractor feels that he would rather pay the fine than comply with the orders of this Department, and by the time a court dispute of this kind is settled, the work is finished and the contractor escapes judgment.

It is suggested that the laws be amended to give this Department jurisdiction over subways of open-cut construction just as it has over the tunnels. At the present time a great deal of subway work is being done in the City of New York, and much more is being planned for the immediate future. If this Department had jurisdiction over subways, accidents on this class of work could be reduced materially, and as the work is really tunnel work, it eventually becoming a tunnel, it should be classed as such by law during its construction.

Special attention is called to the following sections of article IX of the Labor Law, which should be revised in a manner that would set proper standards by which the contractor, as well as the inspector, can knowingly guide himself. Sections 120, 122, 123, 125 to 129, 133 and 135.

There are good rules prescribed under authority of the provisions of sections 120 and 125 of chapter 36, Laws of 1909, but it is our belief that all, or the majority, of these rules should be enacted into laws.

During the year, 66 tunnels or sections of tunnels were in the course of construction in the State, and 176 pneumatic caissons were sunk. On this work were employed 14,270 men — more than in any other year since the establishment of tunnel inspection. The number of inspections were 116 and 186 observations.

Respectfully submitted,

(Signed) Gustav Werner,
Philip J. Steers,
Tunnel Inspectors.

STATISTICS OF TUNNELS INSPECTED, 1912.

LOCATION AND KIND OF WORK.	Owner.	Constructor.	Number of tunnels or sections.	Pneumatic caissons.	Number of employees.	NUMBER OF—	
						Inspections.	Observations.
Work other than New York City Aqueduct.							
Buffalo.							
Pipe line	City of Buffalo	Eastern Concrete Steel Co	2	...	35	....	6
Building foundation	Main and Seneca Co.	O'Rourke Engineering Constructing Co	....	39	40	1	*h*
Canaan.							
Railroad	Boston and Albany R. R. Co	I. L. McCord	1	....	25	....	*d* 1
Kingston.							
Sewer	City of New York	King, Rice & Ganey	1	....	.....	....	*a* 1
New York City.							
Building foundations	Adams Express Co.	Holbrook, Cabot & Rollins Corp	....	26	35	1	1
Building foundations	Guaranty Trust Co.	The Foundation Co	....	34	75	1	*a* 1
Building foundations	Grace Building Co.	O'Rourke Engineering Constructing Co	....	21	40	1	1
Building foundations	New York Telephone Co	O'Rourke Engineering Constructing Co	....	31	75	....	*c* 1
Building foundations	Western Union Telegraph Co	The Foundation Co	....	19	50	1	....
Bridge foundations	City of New York	Arthur McMullen Co	....	4	50	2	*g* 6
Drain	City College	Thos. Crimmins	1	....	25	....	*b* 2
Drain	City of New York	Grant Smith & Co. & Locher	1	....	20	1	*f* 4
Railroad Ave	City of New York	Bradley Contracting Co	4	....	1,500	12	13
Railroad	City of New York	F. L. Cranford	2	....	100	....	2
Railroad	City of New York	Degnon Contracting Co	1	....	400	3	1
Railroad	City of New York	Patrick McGovern & Co	1	....	450	1	1
Railroad	City of New York	Rodgers & Haggerty	1	....	450	2	1
Railroad	City of New York	Arthur McMullen & May	1	....	.....	....	1
Railroad	City of New York	Oscar Daniels Co	1	....	600	3	3
Railroad	City of New York	O'Rourke Engineering Constructing Co	1	....	.....	....	1
Railroad	City of New York	McMullen, Snare & Triest	1	....	250	1	2
Railroad	City of New York	Underpinning and Foundation Co	1	....	400	1	3
Railroad	City of New York	John F. Stevens Constructing Co	1	....	.....	....	....
Railroad (Brooklyn)	City of New York	Smith, Scott & Co	1	....	150	1	6
Railroad (Brooklyn)	City of New York	Bradley Contracting Co	2	....	600	3	12
Railroad (Brooklyn)	City of New York	Tidewater Building Co	1	....	150	....	*a* 3
Railroad (Brooklyn)	City of New York	E. E. Smith Contracting Co	2	....	500	....	10
Street tunnel	City of New York	R. D. Williams	1	....	50	3	3
Sewer	City of New York	Bradley Contracting Co	1	....	75	2	3
Gas main (Bronx and Queens)	Astoria Light, Power and Heating Co	Jacobs & Davies	1	....	500	5	3
Rochester.							
Sewer	City of Rochester	Ripton & Murphy	1	....	25	4	2
Sewer	City of Rochester	Ripton & Murphy	1	....	75	5	2
Sewer	City of Rochester	Ripton & Murphy	1	....	50	1	1
Schenectady.							
Bridge foundation	Delaware and Hudson R. R. Co	The Foundation Co	....	2	50	....	*d* 4

a Reported completed January.
b Reported completed February.
c Reported completed March.
d Reported completed April.
e Reported completed May.
f Reported completed June.
g Reported completed July.
h Reported completed August.

STATISTICS OF TUNNELS INSPECTED, 1912—(*Concluded*).

LOCATION AND KIND OF WORK.	Owner.	Constructor.	Number of tunnels or sections.	Pneumatic caissons.	Number of employees.	NUMBER OF— Inspections.	NUMBER OF— Observations.
		New York City Aqueduct.					
Orange County.							
New Windsor and Cornwall..	City of New York...	Mason & Hanger Co.....	1	....	500	4	4
Orange and Dutchess Counties.							
Cornwall and Storm King...	City of New York...	T. A. Gillespie Co.....	1	....	300	3	4
Putnam County.							
Phillipstown.....	City of New York...	Receivers for Patterson & Co.	1	....	75	....	*c* 2
Phillipstown.....	City of New York...	Hicks, Johnson Co.....	1	....	300	2	4
Putnam and Dutchess Counties.							
Phillipstown and Storm King	City of New York...	Dravo Contracting Co.....	2	....	75	1	*i* 4
Ulster County.							
Marbletown.....	City of New York...	H S. Kerbaugh, Inc.....	1	....	50	2	*c* 1
Marbletown and New Paltz..	City of New York...	T. A. Gillespie.....	1	....	400	2	3
New Paltz and Gardiner....	City of New York...	Harrison & Boice.....	1	....	50	1	....
Gardiner.....	City of New York...	Century Contracting Co.....	1	....	100	1	....
New Paltz.....	City of New York...	James Pilkington.....	1	....	50	3	1
Westchester County.							
Mt. Pleasant and Greenburg	City of New York...	Pittsburgh Contracting Co....	3	....	200	5	3
New Castle and Mt. Pleasant	City of New York...	Rinehart, Coleman & Co.....	4	....	200	2	2
Mt. Pleasant.....	City of New York...	Rinehart & Dennis.....	4	....	100	3	4
Yonkers.....	City of New York...	Geo. W. Jackson.....	1	....	500	3	7
Yonkers.....	City of New York...	Dravo Contracting Co.....	2	....	75	1	*e* 4
Yorktown.....	City of New York...	Glydon Contracting Co.....	2	....	175	3	2
Yorktown.....	City of New York...	Bradley Contracting Co.....	1	....	100	2	2
Yorktown.....	City of New York...	Blakeslee & Sons.....	1	....	75	....	5
New York City.							
New York City.....	City of New York...	Mason & Hanger Co.....	1	....	1,000	5	5
New York City.....	City of New York...	Pittsburgh Contracting Co....	1	....	1,100	5	11
New York City.....	City of New York...	Grant Smith & Co. & Locher..	1	....	1,000	7	10
Manhattan and Brooklyn...	City of New York...	Holbrook, Cabot & Rollins Corp.....	1	....	1,000	6	7
Total.....			66	176	14,270	116	186

c Reported completed March.
e Reported completed May.
i Reported completed September.

E. Report of the Mine Inspector.

Hon. John Williams, *Commissioner of Labor, Albany, N. Y.:*

Sir.— I beg to submit my report on the conditions of mines and quarries in the State of New York for the year ending 30th September, 1912, and to present figures by which the safety of these mines and quarries can be compared with those of other states and countries. The figures have been compiled with the greatest care (see foot note) and show that the prevailing conditions as regards the safety of employees are good, although there still remain certain unsatisfactory features that should be corrected.

I am pleased to report that I have received every assistance from owners and superintendents in making my inspections, and found them, with very few exceptions ready and anxious to comply with orders and recommendations.

All mines and quarries operated in the state were visited once, some of them four or five times,— depending upon the conditions prevailing there, and their dilatoriness in complying with orders and recommendations.

The following is a summary of my work for the year:

Regular annual inspection of mines and quarries	178
Special inspection of mines and quarries	11
Observations	16
	205
Regular inspection of plants (factories connected with mines and quarries)	93
Special inspections	6
Total inspections	304
Orders issued to mines and quarries	405
Violations of chapter 453 referred to State Fire Marshal	82
Orders issued to factories connected with mines and quarries	367
Total number of orders	854
Compliances investigated	218

There were operated during the year 39 mines and 139 quarries, also 93 crushers, separators and cement plants, these latter coming under the term " factories." Five mines visited were temporarily closed pending the construction and alteration of plants for treating the ores. There was 2,919 persons employed in mines, and 4,499 in quarries, a total of 7,418. The scarcity of

labor during the year was very marked, especially throughout the summer months, and, doubtless, an additional thousand men could have been employed. The following tables show the number and causes of accidents, fatal and nonfatal.

FATAL ACCIDENTS IN MINES AND QUARRIES DURING YEAR ENDED SEPTEMBER 30, 1912.

	Average number of employees.*	Fatal Accidents.†		Number of Fatal Accidents and Rate per 1,000 Employed Due to —								
				Explosives and blasting.		Hoisting, haulage and mine machinery.		Fall of material from roofs and sides.		Falling and rolling material handled.		
		No.	Per 1,000 employed.	No.	Rate.	No.	Rate.	No.	Rate.	No.	Rate.	Total number.
Mines:												
Graphite	62	....	.....	....	.....	....	.....	....	.....	....	.....	.....
Gypsum	387	1	2.59	....	.....	....	.....	1	2.59	....	.....	1
Natural cement	266	....	.....	....	.....	....	.....	....	.....	....	.....	.....
Iron	1,753	11	6.27	....	.....	7	3.99	4	2.28	....	.....	11
Pyrites	101	....	.....	....	.....	....	.....	....	.....	....	.....	.....
Zinc	34	....	.....	....	.....	....	.....	....	.....	....	.....	.....
Rock salt	265	1	3.78	....	.....	....	.....	1	3.78	....	.....	1
Talc	51	....	.....	....	.....	....	.....	....	.....	....	.....	.....
Total in mines	2,919	13	4.45	....	.....	7	2.40	6	2.06	....	.....	13
Quarries	4,499	14	3.11	7	1.56	3	0.67	2	0.44	2	0.44	14
Mines and quarries	7,418	27	3.64	7	0.94	10	1.34	8	1.08	2	0.27	27

* To arrive at these figures a statement was secured from all operators of mines and quarries giving the average number employed by them monthly during the year, and from these monthly averages an annual average was computed.

† Fatal accidents are those that caused instant death or were reported as resulting in death up to November 12th. Surface men in separators and crushers are not included as mine and quarry employees.

Nonfatal accidents in mines and quarries during the year ending September 30, 1912, were as follows:

Cause.	Mines.	Quarries.	Total.
Explosives and blasting	14	28	42
Hoisting, haulage and mine machinery	47	48	95
Fall of material from roofs and sides	20	4	24
Falling and rolling material handled	132	94	226
Sundry	159	147	306
	‡372	‡321	693

‡ Differences between these figures and those in Table 6, appended to the report of the Chief Factory Inspector, are due to a few reports there included which were received after the figures here were compiled.

In quarries, half the fatal accidents are due to blasting and the careless handling of explosives. These are the results of evasions of the laws, rules and regulations governing the use of explosives. Article IX, section 125 of the Labor Law reads: "No person shall be employed to blast unless the mine or quarry superintend-

ent, or person having charge of such mine or quarry is satisfied that he is qualified by experience to perform the work with ordinary safety."

The laxity of some quarry superintendents in this matter has been the cause of fatal injuries to seven ignorant foreign workmen and injuries to many others. One superintendent was satisfied with men that had not seen dynamite for longer than three or four weeks, and had all of his 123 muckers listed as special blasters, who, he was satisfied could blast and handle dynamite with safety. Imagine 123 different parcels of dynamite and detonators distributed over the quarry twice daily, and in such hands! The same conditions prevailed in a similar quarry where the superintendent was satisfied that his 85 laborers could safely handle explosives and do the blasting. I sincerely trust that the laws, rules and regulations governing this matter will soon be so rewritten as to secure a stricter interpretation, and thus avoid this inexcusable loss of life and injuries.

Before inspecting the mines of New York State, I was led to believe that they were particularly dangerous, and the number of accidents charged to them substantiated that belief, but I am pleased to be able to assure you that the mines of New York State are not worse than the metalliferous mines of other states and countries, and that they compare very favorably as regards safety, with those of the West, Canada and Europe. Conditions in mines are generally judged by the number of accidents. The conditions of these mines, in themselves, are not so much responsible for the accident rates of 4.45 per 1,000 fatal, and 127 per 1,000 nonfatal, as is the laxity of underground foremen. I recently visited two adjoining mines, with identical conditions; the one had, during the year, a fatal and number of nonfatal accidents, while the other for the same period had but one injury. This is accounted for by the disregard of factors of safety by the one foreman, and the mature judgment and competency of the other. It is pretty difficult for a person of short experience to take in at a glance dangerous or suspicious conditions of roofs, especially when his eyes are blinded by the desire to keep up the output at all risks. The management also is liable to be carried away and to overlook the fact that it takes a good extra tonnage of output to pay the

compensation and cost of litigation resulting from loss of life and limb from a single accident.

I have also found in charge of mines, men that did not know that it was necessary for an out-going blaster to count the blasts fired at the end of the shift and to report the misfires to the foreman or to the incoming miner, who runs the risk of drilling into a charged or misfired hole,— men who I am satisfied, cannot tell when a roof is too weak and dangerous to put men to work under it. In future, I intend to submit reports of such cases and advise you to compel mine owners and managers to appoint persons capable of safeguarding the men in their employ underground.

What makes metalliferous mines more dangerous than coal mines, is that the conditions of ground and mode of attack continually change. Hence the necessity of closer attention and inspection by foremen.

There is another form of laxity that is accountable for a number of accidents. The mine superintendent has generally outside matters that demand his attention, and cannot always be in the mine. Some foremen think that they also need not remain underground during the entire shift and the mine is at times left without a responsible person present. The following circular letter touching this matter has been sent to mine owners and managers:

TO MINE OWNERS & MINE SUPERINTENDENTS.

A large percentage of mine accidents occur during first and last half hour of shift.

Some of the reasons are:

1. Change of conditions between shifts.
2. Lack of inspection of ground and appliances before men are put to work.
3. Hurry at end of shift to finish work and get to surface.
4. Absence of foreman, assistant foreman and shift boss in mine at commencement and end of shift.

In some mines it has become a custom for the sub-officers to go down late and come out at 11 or 11:30 and the same in the afternoon. I do not mean to suggest that such officers can not come up during a shift, but I desire to impress upon you the necessity of closer attention by them at commencement and end of shifts. An officer should be the last to come out of a mine and many an accident in hoisting men would never have happened if the foreman or his assistant were by. Communicate these facts to your assistants

and if necessary enforce rules to that effect. It certainly will give greater safety to your employees and avoid discredit to the mines and miners of New York State.

Several mines have, during the year, provided second outlets, thereby providing better ventilation and greater safety. Several others have received orders to do likewise, and one mine, owing to mismanagement, and consequent inability to secure additional capital, has preferred to shut down.

The following matters should, in my opinion, be introduced into the laws, rules and regulations, so that every owner and mine official will know what is expected of them before orders are issued:

1. Payment of wages to employees near their work, and not in any store nor in a saloon.

2. Plans and sections of all mines to scale of 100 feet to the inch should be prepared by a competent mine surveyor, showing all pillars and abandoned workings.

3. That where conditions arise or exist in mines endangering the life or health of the employees, and where the foreman or person in charge is not capable, under such conditions of caring for the safety of the men in his charge, the mine owners be called upon to appoint a competent person in his place.

4. That boilers must be in separate disconnected buildings from shaft-head and at safe distance from same.

5. Establishment of uniform hoisting signals, the posting of same, and appointment of signal men.

6. Rules regarding blasters and blasting, and particularly the treatment of misfired holes.

7. Sanitation in mines by dry closets.

8. Fencing off of dangerous places in mines, quarries and abandoned pits.

9. That shaft-heads be constructed of noninflammable material.

10. The running of empty trips of skips to mine after all repairs to shafts or tracks and after cessation of work before any men are lowered into mine.

11. Prohibiting the use of electric heaters for thawing dynamite, as well as electric wires in any building where dynamite or detonators are handled.

12. prohibiting the conveyance of explosives in or into mines in iron or steel cars drawn by electric power.

Respectfully submitted,

(Signed) William W. Jones,
Mine Inspector.

APPENDIX III.

GENERAL REPORT OF THE BUREAU OF MEDIATION AND ARBITRATION.

Hon. John Williams, *Commissioner of Labor, Albany, N. Y.:*

Sir.— Article X of the Labor Law, §§ 140–148, inclusive, relates to the Bureau of Mediation and Arbitration. I have the honor to present the following report of the work of this bureau during the fiscal year ending September 30, 1912.

The officers of the bureau have intervened in practically all of the large strikes of the year. The number of such interventions is 63 as compared with 76 last year. These numbers include threatened troubles as well as actual strikes. Interventions before strikes occurred numbered 6 this year and 8 last year. In three cases the efforts of the mediators succeeded in averting a strike. Including these cases the successful interventions numbered 37, as compared with 21 the previous year. The percentage of successful interventions this year is 59, compared with 28 in 1911 and 24 in 1910. It will thus be seen that the success of the mediation work is increasing.

The strikes and disturbances where intervention occurred affected a total of 71,180 employees, while those in which the bureau, for reasons detailed later took no part, affected only 24,100 employees.

Only once during the year was it necessary for the Commissioner of Labor to exercise his powers of formal investigation through the State Board of Mediation and Arbitration. This was in January, 1912, and related to the strike of laundry workers in New York City. A full report of this investigation and a summary of the working conditions disclosed by the investigation have already been published in the March, 1912, Bulletin.

Appended to this report is a tabular summary of all the interventions for the year showing the location of each strike, the trade involved, the date, number of employees involved, date of intervention, result of intervention and result of strike. Notes connected with the table also show where detailed accounts of some of the more important interventions have been published in Department Bulletins.

COMPARISON OF DISPUTES, 1910–1912.

	1910.	1911.	1912.
Number of strikes and lockouts	250	215	184
Employees involved { directly	190,603	84,119	57,340
Employees involved { indirectly	16,319	10,029	34,851
Aggregate days of working time lost	*5,783,394	*2,360,092	†1,512,234

* To the end of all disputes.
† To September 30, 1912.

There were considerably fewer strikes and lockouts in 1912 than in the previous year, the number reported being only 184 as compared with 215 in 1911. A decrease in their size is also quite marked as only 57,340 workmen were included among the direct participants, whereas last year there were 84,119. An unusually large number, however, were indirectly involved, that is, deprived of work on account of other employees being on strike. Thus the total number involved directly and indirectly is very nearly the same as last year. The aggregate number of working days lost in 1912 was one-third less than in 1911.

In several respects the statistics of strikes in 1912 resemble those of 1909, namely, the number of employees directly concerned and the number of working days lost, while the number of disputes was slightly larger in 1912. A high tide was reached in 1910, when the figures showed the largest number of workmen engaged in labor disputes in the history of the bureau, and also an unprecedented loss of working time. Since 1910 a steady diminution has taken place in both number and importance of industrial disturbances.

PRINCIPAL CAUSE OR OBJECT OF DISPUTES.

	Number of Disputes.		Number of working days lost,
	1911.	1912.	1912.
Increase in wages	88	98	1,055,011
Reduction in wages	14	8	7,815
Shorter hours	12	14	6,850
Longer hours	.....	1	150
Trade unionism	59	27	311,519
Particular persons	16	15	25,502
Working arrangements	12	14	12,077
Payment of wages	.....	1	70
Sympathetic	8	3	91,857
Miscellaneous	6	3	1,383

More than the usual proportion of strikes were caused by demands for wage increases. These strikes included more than half the total number of disputes and produced about 70 per cent of the total loss of time. The proportion of trade union disputes was smaller than last year. The movement for shorter hours of labor was also less prominent.

TRADES AFFECTED.	NUMBER OF DISPUTES.		Number of working days lost,
	1911.	1912.	1912.
1. Stone, clay, glass products	11	10	66,350
2. Metals, machines, conveyances	27	24	161,446
3. Wood manufactures	10	4	37,538
4. Leather and rubber goods	6	7	626,095
5. Chemicals, oils, paints, etc	1	2	87
6. Paper and pulp	1	3	1,803
7. Printing and paper goods	10	7	44,422
8. Textiles	13	14	61,134
9. Clothing, millinery, etc	19	28	93,542
10. Food, liquors, tobacco	16	5	2,207
11. Water, light, power	.....	2	333
12. Building industry	77	49	95,197
13. Transportation, communication	21	22	195,552
14. Trade	1	1	104
15. Hotels, restaurants, etc	.....	1	117,000
16. Professions	1	3	9,364
17. Public employment	1	2	60

The largest number of strikes, as usual, occurred in the building industry, but they were of smaller dimensions than those in several other industry groups. The industries rank according to number of disputes in the following order: Building, clothing, metals, transportation, textiles, stone and glass, while the leather and the printing trades produced equal numbers. The order is quite different when considered from the viewpoint of working time lost. The largest loss occurred in the leather and fur trades, and the other important groups rank as follows: Transportation, metals, hotels and restaurants (one large strike causing a loss of 117,000 days), building, clothing, stone and glass, textiles, printing, and wood working.

The largest dispute of the year was the furriers' strike in New York City, which lasted 12 weeks and caused a loss of over 600,000 days. The strikes of teamsters and hotel waiters also in New York City caused losses of over 100,000 days each. Other

important disputes were the strikes of laundry workers, glass cutters, marine firemen, longshoremen, etc., sheet metal workers, and piano makers in New York City, boiler makers in Schenectady and Dunkirk, textile workers in New York Mills and wallpaper printers and color mixers in several localities throughout the State.

RESULTS OF DISPUTES.

	NUMBER OF DISPUTES.	
	1911.	1912.
Strikes successful	61	51
Strikes partly successful	49	45
Strikes lost	105	88

Results of disputes in 1912 show no marked advantage for either side. The number of strikes won or compromised is somewhat larger than of those lost, and involved 36,148 workmen, while strikes lost involved 21,192 workmen. This is a natural proportion for it is the smaller strikes, especially among unskilled and unorganized trades, that most frequently result in failure.

METHODS OF SETTLEMENT OF STRIKES WON OR COMPROMISED.

	NUMBER OF DISPUTES.	
	1911.	1912.
Direct negotiations between parties	93	67
Mediation by State Bureau	14	27
Mediation by other agencies	2	1
Arbitration	.....	1

The strikes settled by direct negotiations between the disputants include many strikes of brief duration, which are settled satisfactorily before news of the disturbance reaches Albany. In many other cases the mediators are all engaged on important disturbances and cannot reach the location of a relatively unimportant strike before a settlement occurs. In many other cases on inquiry by the officers of the bureau it is learned that satisfactory negotiations for a settlement are already in progress, and no intervention is attempted. In the list of strikes settled by mediation by the State bureau, we cannot include cases where the bureau has been of some service in securing a settlement,

unless the efforts of the bureau have been the really important factor in securing such results.

COMPARISON OF INTERVENTIONS, 1911–1912.

	1911.	1912.
Number of disputes in which intervention occurred	80	63
Total number of interventions, including second and third efforts	85	64
Number of requests received for first intervention	21	15
Number of requests for second or third intervention	3	1
Number of disputes in which intervention was successful	21	37
Number of disputes in which intervention was unsuccessful	59	27
Number of interventions before strikes	8	6
Whole number of conferences arranged	31	40
Number of disputes settled by mediation with parties separately	4	1
Dispute settled by arbitration	1	1
Dispute settled by informal investigation	1	.....

Disputes involving corporations engaged in public service, such as railroads, street car lines, express, telegraph, telephone, gas and electric companies occupy a different position from disputes in which one of the parties is a private manufacturing concern. The difference lies chiefly in the degree in which the public is involved. The public interests are affected seriously by all strikes, but when transportation ceases or gas is shut off through an industrial dispute, the public interests are immediate, and equal the interests of the corporation or of its employees.

Such disputes this year have included the Schenectady, Albany Southern and Ogdensburg street railways, New York steamship companies, Binghamton and Ogdensburg gas plants, and the Albany, Mechanicville, New York City and Rome freight transfers. The best means of dealing with such disputes remains a debated question. All parties are agreed that they should be prevented from occurring if possible, but all agree likewise that any measure savoring of compulsory arbitration will be impossible of acceptance. The chief mediator is secretary of the National Association of State Boards of Mediation and Arbitration which is studying this problem. He is also chairman of a special committee of the National Civic Federation appointed to draft a model State law providing for mediation and arbitration.

Reference to the statistical summary will show that the interventions of the bureau in public service corporation disputes this last year were almost uniformly successful, but the danger that this might not always prove true still exists.

It is practically impossible for any strike on public service corporations to continue long in opposition to the weight of public opinion. It is suggested, therefore, that the law should be amended to provide for early public investigation by the State Board of Mediation and Arbitration of all disputes involving public service corporations within five days of the beginning of any strike. The certainty that such a public investigation is coming will naturally act to make both parties to a controversy reluctant to permit a strike to occur without first availing themselves of the friendly offices of the mediators, and especially unless they feel confident that their cause is just, and will command public support.

I would also recommend an amendment to the Labor Law to secure immediate information to the Commissioner of Labor from the responsible administrative officers in the cities and counties of any strike or lockout in their jurisdiction. Our present reliance must be placed on news reports and chance information or requests from the parties to disputes. Thus a disturbance might easily be remedied, but by failure of having notice of the disturbance the bureau may be unable to act until a serious condition exists involving a vast economic waste.

Respectfully submitted,

(Signed) Wm. C. Rogers,

Second Deputy Commissioner of Labor.

TABULAR SUMMARY OF INTERVENTIONS.

(Showing also number of interventions, requests for intervention and threatened as well as actual strikes.)

LOCALITY.	Trade involved.	Date of strike (actual or threatened).	Number of employees affected.	Date of intervention.	Result of intervention.	Result of strike.
*Albany	Carriage and wagon workers.	Mar. 1, 1912	70	Feb. 22, 1912	Conferences of committee with individual employers arranged; adjustment reached.	No strike occurred; wages increased.
*Albany	Street railway employees.	Aug. 2, 1912	450	Aug. 3, 1912	Both parties were interviewed and requested to give the Bureau an opportunity to intervene before a strike occurred; they consented.	No strike occurred; proposed change of schedule withdrawn by company.
§Albany Southern Railroad.	Conductors and motormen.	June 7, 1912	46	June 8, 1912	Mediation resulted in consent of both parties to submit dispute to arbitration by the Commissioner of Labor.	Decision in favor of the company.
**Batavia	Carpenters	May 15, 1912	80	May 27, 1912	Conference attended by mediator; settlement arranged.	Wages increased as demanded.
**Buffalo	Automobile painters, etc.	Oct. 9, 1911	130	Oct. 21, 1911	Conference arranged; terms for settlement proposed by Bureau were accepted.	Any grievance remaining after two weeks to be adjusted within ten days between the company and committee.
Fishkill	Carpenters	April 1, 1912	35	April 12, 1912	Conferences arranged; terms of settlement suggested by mediator were adopted.	Compromise increase in wages; hours reduced as demanded.
§Hastings-on-Hudson.	Conduit and cable workers.	June 13, 1912	450	June 19, 1912	Conferences arranged and terms of settlement secured.	Compromise increases in wages.
¶Mechanicville	Freight handlers	Sept. 9, 1912	70	Sept. 12, 1912	Conferences arranged which resulted in settlement.	Compromise increase of wages granted.
††Mineville	Mine workers	Jan. 3, 1912	1,000	Jan. 5, 1912	Conference arranged; dispute adjusted	No strike occurred.
*§Mineville	Mine workers	May —, 1912	1,000	May 15, 1912	Conferences arranged; settlement secured.	No strike occurred; compromise settlement; wages advanced.
New York City	Bakers	Jan. 26, 1912	115	Feb. 6, 1912	Proposal for conference declined by employers.	Strike failed; places filled with new employees.
New York City	Cap makers	Mar. 8, 1912	76	Mar. 18, 1912	Efforts made to arrange conference, but employer refused to meet union committee.	Strike failed; places filled with new employees.
New York City	Carpenters	Feb. 27, 1912	200	Feb. 28, 1912	Efforts made to arrange conference, but employers' association refused to recognize the strike.	Strike failed; places filled.
‡New York City	Cutting die and cutter makers.	Jan. 2, 1912	85	Jan. 11, 1912	Conferences arranged which resulted in settlement.	Compromise reduction of hours.

‡New York City.....	Fur dressers, etc.....	Mar. 1, 1912	625	Mar. 7, 1912...	Conference arranged which resulted in settlement.	Demands of union granted.
¶New York City.....	Furriers.....	June 20, 1912	8,550	June 24, 1912...	Conferences arranged and terms of settlement proposed; later conference arranged by a clergyman resulted in settlement on practically same terms.	Strike successful.
New York City.....	Iron workers.....	Oct. 6, 1911	650	Oct. 6, 1911...	Conference arranged; employers were persuaded to prevent extension of the lockout; further conferences resulted in settlement.	Original strike failed; trade agreement signed.
New York City.....	Laborers.....	Aug. 21, 1912	26	Aug. 23, 1912...	Parties were interviewed; conference proposed but company refused to confer.	Strike failed; part of strikers returned to work.
New York City.....	Laborers and coopers.	Sept. 11, 1912	128	Sept. 14, 1912...	Conference arranged which resulted in settlement.	Compromise increase of wages for laborers; coopers lost the strike.
**New York City...,	Ladies' coat makers..	Dec. 28, 1911	44	Dec. 29, 1911...	Conference arranged which resulted in settlement.	Piece work system adopted as demanded.
New York City.....	Ladies' tailors.....	Mar. 16, 1912	125	Mar. 25, 1912...	Efforts to arrange conference unsuccessful as employer refused to go into conference.	Demands of strikers granted.
New York City.....	Ladies' tailors.....	Mar. 16, 1912	40	Mar. 28, 1912...	Conference arranged which resulted in settlement.	Demands of strikers granted.
†New York City.....	Laundry workers....	Jan. 2, 1912	600	Jan. 2, 1912...	Conferences arranged were unsuccessful; public investigation conducted.	Union conditions established in six laundries; strike failed in others.
New York City.....	Longshoremen.....	July 9, 1912	1,080	July 10, 1912...	Efforts to arrange conference were unsuccessful.	Strikers returned to work without gaining demands.
¶‡‡**New York City.	Marine firemen, longshoremen, etc.	July 1, 1912	3,900	July 1 and 18, 1912.	First intervention unsuccessful; second resulted in conference and settlement.	1,900 longshoremen and 800 seamen returned to work on practically same terms as before; places of firemen and oilers filled with new employees.
**New York City....	Neckwear makers....	Oct. 23, 1911	1,400	Oct. 23, 1911...	Conferences arranged; successful....	Union demands granted.
New York City.....	Neckwear makers....	Jan. 6, 1912	40	Jan. 10, 1912...	Conferences arranged; successful....	Compromise settlement.
New York City.....	Neckwear makers....	June 6, 1912	24	June 7, 1912...	Conference arranged which resulted in adjustment of dispute.	Non-union employee joined the union as demanded.
New York City.....	Painters.....	April 15, 1912	200	April 25, 1912...	Efforts to arrange conference were unsuccessful.	Strike failed; places of strikers filled with new employees.
**New York City....	Paper box makers...	Sept. 1, 1911	405	Oct. 13, 1911...	Conference arranged which resulted in settlement.	Compromise reduction in wages established.
New York City.....	Piano makers.....	April 16, 1912	550	April 22, 1912...	Conference arranged but failed of settlement.	Compromise offer of firm accepted by strikers.

* Not a strike. † See detailed account in Department Bulletin No. 50. ‡ See detailed account in Department Bulletin No. 51. § See detailed account in Department Bulletin No. 52. ¶ See detailed account in Department Bulletin No. 53. †† Intervention requested, not a strike. See detailed account in Department Bulletin No. 51. ** Intervention requested. ‡‡ Two interventions.

TABULAR SUMMARY OF INTERVENTIONS — (*Continued*).

(Showing also number of intrventions, requests for intervention and threatened as well as actual strikes.)

LOCALITY.	Trade involved.	Date of strike (actual or threatened).	Numb of employees affected.	Date of intervention.	Result of intervention.	Result of strike.
New York City.....	Piano makers.....	Sept. 23, 1912	4,000	Sept. 23, 1912...	Efforts to arrange conference unsuccessful because manufacturers' association refused to recognize the union.	Strike failed; strikers returned to work.
‡New York City.....	Plaster makers.....	Jan. 20, 1912	323	Jan. 26, 1912...	Conference arranged; successful.....	Strikers returned to work accepting employers' terms.
New York City.....	Rubber workers.....	May 24, 1912	40	May 29, 1912...	Conference arranged and settlement affected.	Compromise settlement.
New York City.....	Sheet metal workers.	Oct. 26, 1911	700	Oct. 26, 1911...	Parties were interviewed and asked to take up the matter for settlement, but employers refused to act until strikers returned to work.	Strike failed; strikers returned to work unconditionally.
New York City.....	Shirt ironers.....	Oct. 2, 1911	35	Oct. 18, 1911...	Conference arranged which resulted in settlement.	Compromise settlement.
*New York City.....	Shirt waist makers..	May –, 1912	65	May 31, 1912...	Conference arranged and dispute adjusted.	No strike occurred; discharged employee was reinstated as demanded.
New York City.....	Shoe cutters.....	June 11, 1912	46	July 12, 1912...	Conference arranged but failed of adjustment.	Strike failed; places of strikers filled with new employees.
New York City.....	Silk weavers.....	Mar. 19, 1912	115	April 4, 1912...	Efforts to arrange conference unsuccessful; neither party would consent to confer.	Strikers' places filled with new employees.
New York City.....	Silk weavers.....	April 2, 1912	70	April 4, 1912...	Suggestions made for conference or arbitration, declined by strikers who were members of the Industrial Workers of the World.	Compromise increase of wages.
New York City.....	Silversmiths.....	May 13, 1912	15	May 23, 1912...	Conference arranged and settlement effected.	Compromise settlement.
**New York City....	Skirt makers.....	Oct. 3, 1911	18	Nov. 21, 1911...	Conference arranged, resulting in settlement.	Compromise settlement.
New York City.....	Teamsters.....	Aug. 28, 1912	2,000	Aug. 29, 1912...	Contractors refused to confer with strikers on Bureau's request, but afterward consented on request of Board of Governors of Building Trades Association.	Compromise settlement.
**New York City....	Waist makers.....	Jan. 6, 1912	80	Feb. 13, 1912...	Efforts to arrange conference unsuccessful; employers refused to confer.	Strike failed; places filled.

New York City.....	Waist makers.....	Jan. 6, 1912	74	Feb. 5, 1912...	Conference arranged which resulted successfully.	Settlement effected; demands granted.
New York City.....	Waist makers.....	Feb. 7, 1912	20	Feb. 13, 1912...	Conference arranged which resulted in settlement.	Demands of strikers granted.
New York City.....	Waist makers.....	Feb. 7, 1912	25	Feb. 13, 1912...	Employers were requested to confer with strikers but refused.	Demands granted through direct negotiations of the parties.
New York City.....	Waist makers.....	Feb. 7, 1912	30	Feb. 13, 1912...	Conference arranged which resulted in settlement.	Union demands granted.
**New York City....	Waist makers.....	Feb. 7, 1912	40	Feb. 13, 1912...	Conference arranged but parties did not agree on price list.	Strike failed; places filled with new employees and strikers found work elsewhere.
§New York City.....	Waiters, etc.....	May 7, 1912	6,500	May 9, 1912...	Efforts to arrange conference were unsuccessful.	Strike failed; strikers returned to work or their places were filled.
New York City.....	White goods workers.	June 17, 1912	75	June 27, 1912...	Conferences arranged which resulted in submission of dispute to arbitration.	Strikers returned to work and afterward withdrew their demand.
New York City.....	White goods workers.	Aug. 15, 1912	25	Aug. 27, 1912...	Conference arranged between company's representative and union official, resulting in settlement.	Compromise settlement.
‡New York Mills....	Cotton spinners.....	Mar. 28, 1912	1,119	Mar. 29, 1912...	When employers declined to confer with strikers a public investigation was proposed by Department unless settlement was effected at once.	Compromise settlement through conference between representatives of strikers and employers directly.
‡‡**¶New York State (Buffalo, Glens Falls, Hudson Falls, Plattsburg, Schuylerville and New York City).	Wall paper printers, etc.	Aug. 24, 1912	155	Aug. 10, 1912...	Conferences arranged which resulted in settlement.	Compromise settlement.
**Oneida.....	Hod carriers.....	May 1, 1912	87	May 6, 1912...	Conference arranged and settlement effected.	Compromise increase in wages.
**††Rifton.....	Carpet weavers.....	July 31, 1911	75	July 17, 1912...	By request of union official employers were interviewed but refused to make any concessions or to meet committee of strikers.	No settlement made.
§Rochester.....	Hod carriers.....	May 24, 1912	1,000	May 28, 1912...	Conference arranged and agreement adopted.	Compromise settlement.
Rome.....	Hod carriers.....	Oct. 11, 1911	40	Nov. 1, 1911...	Parties were interviewed but no conference arranged; employers refused to grant any increase.	Strike failed; strikers returned to work.
†Schenectady.....	Motormen and conductors.	Oct. 19, 1911	300	Oct. 20, 1911...	Conference and settlement arranged.	Demands granted.
**Utica.....	Machinists.....	July 11, 1911	54	Nov. 2, 1911...	Proposal for conference declined by employers.	Strikers' places were filled with new employees.

* Not a strike. ‡ See detailed account in Department Bulletin No. 51. § See detailed account in Department Bulletin No. 52. ¶ See detailed account in Department Bulletin No. 53. ** Intervention requested. ‡‡ Intervention before strike. † See detailed account in Department Bulletin No. 50. †† Second intervention.

TABULAR SUMMARY OF INTERVENTIONS — (*Concluded*).

(Showing also number of interventions, requests for intervention and threatened as well as actual strikes.)

LOCALITY.	Trade involved.	Date of strike (actual or threatened).	Number of employees affected.	Date of intervention.	Result of intervention.	Result of strike.
**¶Utica	Molders	June 22, 1912	110	Sept. 11, 1912	Employer refused to meet committee of strikers; mediation resulted in settlement.	Compromise settlement.
**¶Utica	Molders	June 22, 1912	16	Sept. 25, 1912	Attempts to arrange conference unsuccessful; employer insisted on non-union shop.	Strike failed; places filled with new employees.
**¶Utica	Molders	June 22, 1912	48	Sept. 25, 1912	Conference arranged but failed of settlement.	Strike failed; strikers' places filled with new employees.

** Intervention requested. ¶ See detailed account in Department Bulletin No. 53.

APPENDIX IV.

GENERAL REPORT OF BUREAU OF MERCANTILE INSPECTION.

Hon. John Williams, *Commissioner of Labor, Albany, N. Y.:*

Sir.— Appended to this report are tables showing with some detail the work of the Bureau of Mercantile Inspection, for the year ended September 30, 1912.

WORK OF DEPUTY MERCANTILE INSPECTORS.

At the close of the fiscal year 1912 this bureau has completed its fourth year. The work this year, as in previous years, shows the inadequacy of the present force of inspectors, in comparison with the vast amount of work to be done under the provisions of Article XI of the Labor Law. During the four years of the bureau's existence there have been 39,882 inspections and observations made, as follows:

	Inspections.	Observations.	Total.
New York City	20,616	10,576	31,192
Buffalo	3,701	1,817	5,518
Rochester	1,031	1,241	3,172

Since the amendment to section 168, which eliminates the words " where women and children are employed," we have ceased making observations, as all such places as were formerly covered by observation must be inspected to ascertain that proper toilet facilities are provided.

The number of offices inspected in 1912 is about the same as the year previous. We have endeavored to cover some of the large offices, but most of those inspected were telegraph offices and others engaged in the distribution or transmission of merchandise, articles or messages. The relative number of offices inspected, as compared with mercantile establishments is shown as follows:

Mercantile establishments	38,816
Business offices	1,066

Since the organization of the bureau the Legislature has amended section 161 twice, and has included therein places of

amusement, bowling alleys, barber shops and shoe-polishing establishments. This has greatly increased the work and responsibility of the bureau. Places of amusement and bowling alleys have increased the amount of night work to be performed, while there has been no increase in the number of inspectors.

The inspectors of the bureau have performed their duties in a very creditable manner, but it is not reasonable to expect them to work night and day, as they have to do on many occasions. They are compelled to be in court when necessary, and they must inspect, at times, early in the morning, regarding violations of, before 8 A. M., and late in the evening, relative to violations for the employment of children after 7 P. M., and females under 21 after 10 P. M.

Again I call attention to our inability to properly cover all mercantile establishments with our present force of inspectors.

The four years' experience of the bureau has shown that the provisions of Article XI are not sufficient to cope with the conditions found in mercantile and other establishments; therefore, I will refer to such changes as are necessary under their respective headings.

COMPLAINTS.

During the year 1912 there were 235 complaints received, in comparison with 222 for the previous year. There were 77 anonymous complaints and 158 signed by the person making the complaint. In all instances where the name and address of the complainant were given they were communicated with and informed of the result of our investigation. The investigations of complaints showed there were 95 sustained and 140 not sustained. The various subjects of the complaints received are shown in the appended table.

WASHROOMS AND WATER-CLOSETS.

There were issued during the year, 2,694 orders regarding water-closets, and there were secured 2,596 compliances.

There were 1,049 orders to clean water-closets, and 1,000 compliances secured; 83 orders were issued regarding washrooms and 57 compliances were secured. The amendment to section 168, which went into effect October 1, 1911, and which eliminated the

words " Where women and children are employed," making the section apply to all mercantile establishments, has resulted in an increase, over the previous year, of 962 orders, relative to water-closets, and an increase of orders to clean water-closets, of 636 over the year previous. The comparison of these figures between the years 1911 and 1912, proves very conclusively the wisdom of amending section 168, making it apply to all mercantile establishments. We have experienced some difficulty in regard to providing water-closets in meat markets. The Department of Health in New York City have, in almost all meat markets, ordered the removal of the water-closets that were in connection with the store, thereby leaving no toilet facilities accessible to the employees. The reason for doing so may be to preserve the health of the public, but in our experience it has not improved the sanitary conditions or added to the comfort of the employees, for in most instances where the closets have been removed, the conditions found were anything but clean or sanitary. It seems, from our experience, that it would have been far better for the Department of Health to have compelled the owner of the premises to properly enclose the water-closets and have the same properly ventilated to the open air, the plumbing kept in proper repair and that the occupant of the premises be held responsible for keeping the same clean at all times. It does not appear from our observations that the attitude of the Department of Health relative to butcher stores has been applied to grocery, fruit and vegetable and cigar stores, restaurants or lunch rooms, although the conditions found by the inspectors of this bureau in many places of this character have been deplorable.

In most instances mercantile establishments and those named in section 161, are kept in a clean condition, but in many places that part of the premises not visited by the public, such as storerooms, cellars, etc., are unclean, and under the provisions of Article XI the bureau has no power to order any part of the premises cleaned other than the toilets. We find many of the premises adjoining mercantile establishments in a filthy condition. In such cases we are compelled to notify the Department of Health in order to remedy the existing conditions. I, therefore, recommend that there be provision made in Article XI making it mandatory that the premises be kept clean and sanitary.

I desire to recommend that the provisions of section 168 be further amended to apply to all establishments named in section 161. As section 168 reads, we cannot order toilet facilities in business offices, telegraph offices, restaurants, or in other words, in any place other than a mercantile establishment.

There should be a provision in the law for the proper lighting of water-closets, the same as is contained in section 88 of Article VI, relative to water-closets in factories. In this connection I desire to state that during the year 1912 the owners of buildings or occupants of mercantile establishments have provided lights in 435 water-closets at the suggestion of this bureau, although we have no power to compel the installation of such lights. This shows that many of the owners and tenants are willing to do what they can to keep their premises clean. In only one instance have we been compelled to prosecute for failure to provide water-closets, although we issue 303 orders to provide water-closets and secured 300 compliances.

SEATS FOR FEMALES.

There were issued during the year 41 orders to provide seats for females, and 41 compliances were secured. We received 6 complaints regarding seats, 2 of which were sustained and 4 not sustained.

It was necessary to prosecute in three instances for failure to provide seats, one pleading guilty and sentence suspended, one pleading guilty and was fined $50, another was convicted and fined $30.

In the larger stores difficulty arises from the buyers and heads of departments preventing female employees of their departments from sitting. We have found this condition existing in stores where the policy of the firm is to permit the employees to use the seats.

There are still some employers who after installing seats prevent the employees using them, but their number is diminishing as the average business man can see the wisdom of permitting the females in his establishment to use the seats when a proper opportunity presents itself.

There is much difficulty experienced regarding seats in mercantile establishments when the seats are not permanently lo-

cated and where boxes and stools are used. When any kind of a seat, other than the permanently located seat, is used they are liable to be moved to some other part of the store, resulting in a violation of the law.

There is some agitation for seats with backs. In many stores the seats used in aisles and in places other than behind the counters have backs. It is questionable whether a seat with a back can be used in the present average space behind the counters. But there should be provision in the law requiring all seats to be a standard height of 18 inches from the floor, and where seats are necessary at a greater height, that a proper foot rest be provided 18 inches below the seat. The minimum size of the seat should be about 12 inches in diameter. If the law contained such provisions it would do away with many of the makeshift seats used at present.

VENTILATION.

During the year we endeavored to have air tests made in the basements of mercantile establishments having permits for the employment of women and children in basements. It is questionable whether some of the basements are properly ventilated. It would be unjust to refuse or revoke permits unless a proper air test revealed that the basement was not properly ventilated, or in an unsanitary condition. Owing to the large amount of work required of the medical inspector of the Department in connection with factories it was impossible to make many such tests.

In one instance we were compelled to revoke the permit for the use of basement because of the unsanitary condition revealed after air tests of the basement had been made, and the failure of the occupant to make such changes as were recommended. For failure to make the changes and continuing to permit women and children to work in the basement without permission, the firm was prosecuted, pleaded guilty and fined $50. The law provides no standard of ventilation and if we find the air conditions below the recognized standard, it becomes a question of dispute between the proprietor and this bureau. This subject was mentioned in my last report, hence deem it unnecessary to dwell on it, other than to renew my recommendations of last year, which are as follows:

"I would recommend that this section be amended so as to

provide a definite standard of air conditions, and giving power to the Commissioner of Labor to order proper means of ventilating such establishments when necessary after proper air tests had determined that such premises were below the standard set by law and therefore injurious to the persons employed. If such an amendment were made it would be well to eliminate the provision of making the use of basements where women and children are employed contingent on permission from the Commissioner of Labor to use said basement."

CHILD LABOR.

Four years' experience of this bureau proves clearly that the child labor problem, as it relates to mercantile establishments, business offices, places of amusement, bowling alleys and shoe-polishing establishments, is a difficult one, and although the figures are very high it should be remembered that in the four years we have not covered all the establishments; and what the conditions would be if we were able to cover all such places in one year can only be conjectured by a comparison of the figures for each of the previous years, as will be found in the following table:

	1909.	1910.	1911.	1912.	Total.
Inspections made	7,235	5,236	5,282	8,395	26,148
Children employed:					
Legally	2,949	2,461	2,253	2,823	10,486
Illegally (14 to 16 years without certificate)	2,365	1,660	1,154	1,346	6,525
Illegally (under 14 years)	756	711	421	756	2,644
Total	6,070	4,832	3,828	4,925	19,655
Percentage illegally employed:					
14 to 16 years (without certificate)	38.9	34.3	20.2	27.3	.....
Under 14 years	12.5	14.7	10.9	15.3	.....
Total	51.4	49.0	41.1	42.6	.....

During the year there were found legally employed, 2,823 children under 16 years of age; there were illegally employed, 756 under 14 years and 1,346 between 14 and 16 years without employment certificates, making a total of 2,102 illegally employed, or 42.6 per cent. of all children found employed. These figures show an increase over the percentage of 1911, and may be accounted for by barber shops and shoe-polishing establishments being placed under the provisions of section 161. The

number of children found in such establishments was 4.9 per cent. of all children illegally employed, and 2.1 per cent. of all children employed.

It may not be generally known that a large number of grocery and drug stores, in addition to the stores known as wine and liquor stores, sell bottled liquors. In most all of these they employ children to deliver the goods. During our four years' experience we have found boys under 16 years intoxicated while working in grocery stores where liquor is sold, because of their easy access to such liquors. Section 93 of article VI provides that no child under 16 years can be employed "in or about any distillery, brewery or any other establishment where malt or alcoholic liquors are manufactured, packed, wrapped or bottled." It would be advisable to extend the provisions of section 93 to mercantile establishments, with the additional provision to prevent the employment of children where such goods are sold, handled or distributed.

Section 71 was amended to take effect October 1, 1912, requiring that the physical fitness of the child shall be determined before an employment certificate shall be issued. It would be well to amend section 163 of the Mercantile Law, which was identical with 71 until the latter was amended. In cities of the first class the Departments of Health have decided to make no distinction between children employed in factories and those employed in mercantile establishments. The work in mercantile establishments as a rule is harder on young children than in factories. Children in factories are generally permitted to sit at their work, while in mercantile establishments they are employed as messengers or in the distribution of merchandise, and are on their feet almost all day and work longer hours.

HOURS OF LABOR.

There is no perceptible change in the conditions as to the hours of labor, from that shown in former reports. There were 229 orders issued regarding hours of labor of children, 14 to 16 years of age, and 216 compliances secured. There were 220 orders issued regarding the hours of females, 16 to 21 years, and 199 compliances secured.

Under the provisions of section 161 we are practically com-

pelled to confine the enforcement of this section to the employment of children under 16 years before 8 A. M. or after 7 P. M., and of females, 16 to 21, before 7 A. M. or after 10 P. M. There is little difficulty in proving such violations, and during the year we have prosecuted 128 cases for the employment of children before 8 A. M. or after 7 P. M., and 42 cases for the employment of females 16 to 21, before 7 A. M. or after 10 P. M. It is useless to endeavor to prove the hours per day or week without the assistance of the employees, and we do not find the employees willing to assist to the extent of giving evidence. In many establishments the hours are long and there is no relief for the employees unless some change is made in this section, which will make the law relative to the hours in mercantile establishments of the same standard as the Factory Law, with the exception of permitting longer hours on Saturday. This I have recommended for the past two years.

At present the Mercantile Law applies to the hours of labor of females 16 to 21 years, and should apply to all women, as the provisions of section 77 do to all women employed in factories. As the law stands at present, it discriminates against the female under 21 years in many instances. The female over 21 years needs the protection of the law as much as do those under 21 years. If the law is to stand as at present, only applying to females under 21, it will be well to provide power in the law to demand proof of age of females apparently under 21 years, as is provided in section 167 relative to children apparently under 16 years. As the law is at present, all the female has to do is to insist she is over 21 years, and we are powerless to enforce the law unless we can secure legal proof of age.

PROSECUTIONS.

There were pending in court on October 1, 1911, 71 cases, 70 of which were in New York City and 1 in Buffalo. All were disposed of during the year as follows: 3 dismissed by magistrate; 2 acquitted by Special Sessions; 2 withdrawn (witnesses left the state); 32 pleaded guilty and sentence suspended; 16 pleaded guilty and fined; 9 convicted, sentence suspended; and 7 convicted and fined. Fines amounted to $1,015.

During the year 1912 there were 555 cases for prosecution

presented to the courts, as follows: Buffalo, 140; Rochester, 21; New York City, 394. The cases in New York City were divided in boroughs thus: Manhattan, 194; Brooklyn, 153; Bronx, 42; Queens, 4; Richmond, 1. Of the 555 cases begun during the year, 523 were disposed of, leaving 32 pending October 1, 1912, and making 594 cases disposed of during the year. The violations and results of such prosecutions are shown in the table appended.

Of the 523 prosecutions started and finished in 1912, 27 were dismissed by magistrates; 9 acquitted in Special Sessions; 2 withdrawn (witnesses left the state); 5 forfeited bail; 255 pleaded guilty, sentence suspended; 105 pleaded guilty, fined; 82 convicted, sentence suspended; 38 convicted, fined. The amount of fines imposed, including $105 forfeited bail, amounted to $3,580. Adding to this the amount of fines imposed in the cases pending from 1911 and disposed of in 1912, which was $1,015, makes a total of $4,595 in fines for the year.

There was an increase of 5 in the number of cases prosecuted in 1912 over that in 1911. There has been some improvement in the amount of fines imposed. There was an increase of $1,920 over that of the preceding year. The records show entirely too many suspended sentences. In Buffalo a case of third offense, for employing children without certificate, was presented to the court and the defendant convicted and sentence suspended. The courts in New York City have recognized the necessity of dealing summarily with those who persist in violating the law and in the fines imposed during the year there was one of $500 for a third offense in a case of employing a child under 14 years and one of $250 for a third offense of employing a child after 7 p. m.

While the courts of New York City and Buffalo have shown some improvement in the treatment of violators of the law, the same cannot be said for the court in the city of Rochester. Of the 21 cases begun in that city, 10 were dismissed by the magistrate. If the evidence in the cases was such as would justify a dismissal, there would be no cause for complaint. There were five cases in which the bail was forfeited, the bail being $20 in four cases and $25 in the other case. The defendants had not left the city or even changed their place of business, nor has there

been any attempt made by the magistrate to bring the defendants into court.

In connection with the 555 cases presented to the courts, there were 3,386 hours consumed, or 6.1 hours per case.

The following table will be interesting as a means of showing the character of business in which violations of the Mercantile Law occurred:

DISTRIBUTION OF PROSECUTIONS BY CHARACTER OF BUSINESS IN WHICH FOUND.

	Nature of Offense.					
	Employing children					
Character of Business.	Under 14 years of age.	Under 16 without certificate.	Before 8 A. M. or after 7 P. M.	Failure to prove age of children.	Employing women after 10 P. M.	Total.
Amusement places	.....	4	5	.....	.....	9
Bakeries	10	14	5	.....	1	30
Barber shops	11	4	1	.....	.....	16
Bowling alleys	12	17	4	.....	.....	33
Cigar stores	.....	2	.....	.....	.....	2
Clothing stores	3	5	3	.....	1	12
Confectioneries	5	6	9	.....	2	22
Dairies	1	2	4	.....	.....	*a* 8
Delicatessen stores	3	1	1	.....	.....	5
Department stores	6	7	5	.....	8	*c* 27
Drug stores	.....	2	2	.....	.....	*c* 5
Express service	2	1	4	.....	.....	7
Five and ten cent stores	.....	6	6	.....	25	37
Florists	1	4	3	.....	.....	8
Fruit and vegetable stores	29	20	8	.....	.....	*b* 59
Groceries	41	28	28	.....	4	101
House furnishing stores	.....	4	1	.....	.....	5
Laundries	2	2	2	.....	.....	6
Meat markets	44	24	26	.....	.....	94
Milliners	.....	2	2	.....	1	*c* 6
Miscellaneous	4	7	3	.....	.....	15
Shoe polishing	13	11	.....	3	.....	27
Shoe stores	.....	3	3	.....	.....	*d* 7
Stationers	3	2	.....	.....	.....	5
Telegraph offices	1	1	.....	.....	.....	*e* 3
Wine and liquor stores	2	1	3	.....	.....	6
Total	193	180	128	3	42	555

SCHOOL RECORDS.

The schools being closed during vacation, a large number of children appeal to this bureau asking us to sanction their employment. The school records not being available, they were pre-

a Includes also one case for interfering with a deputy inspector.
b Includes also two cases for interfering with a deputy inspector.
c Includes also one case for failure to provide seats for females.
d Includes also one case for using basement without a permit.
e Includes also one case for employing messenger under 21 after 10 P. M.

vented from securing employment certificates from the Health Department; otherwise these children meet all the requirements of the law. Many of them may have had no intention of seeking employment when the schools closed. Opportunities for employment, however, having been presented, the children are desirous of accepting such positions, but are debarred in consequence of their inability to procure employment certificates. When the schools open the position has been filled. In this way children lose many opportunities to secure desirable positions. It would be beneficial to many children if the school records were available during the summer vacation.

Respectfully submitted,

(Signed) JAMES L. GERNON,
Mercantile Inspector.

1. WORK OF DEPUTY MERCANTILE INSPECTORS.

	1912.				
Regular inspections:	New York City.	Buffalo.	Rochester.	Total.	Total, 1911.
Mercantile	5,792	836	755	7,383	4,466
Office	121	15	10	146	146
Hotel	8	2	2	12	5
Bowling alleys	27	94	44	165	73
Places of amusement	33	10	4	47	68
Total	5,981	957	815	7,753	4,758
Special inspections:					
Mercantile	544	54	22	620	506
Office	5	1	.....	6	4
Hotel	.....	.....	.....	.....	1
Bowling alleys	7	1	.....	8	8
Places of amusement	5	2	1	8	5
Total	561	58	23	642	524
Observations:*					
Mercantile	.....	.....	.....	.....	3,451
Office	.....	.....	.....	.....	58
Hotel	.....	.....	.....	.....	3
Bowling alleys	.....	.....	.....	.....	86
Places of amusement	.....	.....	.....	.....	117
Total	.....	.....	.....	.....	3,715
Investigations:					
Complaints	184	27	24	235	222
Compliances (number of establishments)	2,467	311	312	3,090	2,395
Total	2,651	338	336	3,325	2,617

* Discontinued in 1912.

2. CHILDREN FOUND IN MERCANTILE ESTABLISHMENTS.

	14 to 16 Years of Age Employed —				Under 14 Years. (illegally employed).		Total under 16.	Total under 16.
	Legally.		Illegally.					
	Boys.	Girls.	Boys.	Girls.	Boys.	Girls.	1912.	1911.
New York City	930	1,104	943	125	607	37	3,746	2,460
Bronx	3	3	67	5	34	1	113	112
Brooklyn	21	229	462	68	386	25	1,191	461
Manhattan	904	872	409	50	173	11	2,419	1,839
Queens	....	.....	3	2	12	.....	17	44
Richmond	2	.....	2	.....	2	.....	6	4
Buffalo	159	118	163	52	83	10	585	848
Rochester	231	281	45	18	18	1	594	520
Total (1912)	1,320	1,503	1,151	195	703	48	4,925	.....
Total (1911)	1,147	1,106	928	226	384	37	.....	3,828

3. ORDERS AND COMPLIANCES.

Subject. (With reference to section of Labor Law.)	Orders issued.	Orders complied with.*
I. Administration.		
Keep register of children employed, § 167	12	13
Post law, § 173	1	.....
II. Sanitation.		
Forty-five minutes for noonday meal, § 161	42	47
Twenty minutes for supper, § 161	9	10
Provide water-closet, § 168	303	300
Separate water-closets, § 168	40	42
Designate water-closets, § 168	13	14
Clean water-closets, § 168	1,049	1,000
Ventilate water-closets, § 168	155	156
Paint water-closet, § 168	24	15
Light water-closet, § 168	450	435
Remove obscene writing and marking, § 168	55	58
Screen water-closet, § 168	78	80
Repair water-closet, § 168	359	378
Make water-closet accessible	24	27
Repair plumbing of water-closets, § 168	142	89
Remove water-closet, § 168	2	2
Provide washroom, § 168	33	36
Clean washroom, § 168	29	11
Repair washroom, § 168	20	10
Make washroom accessible	1	.....
III. Children.		
Cease employing children under 16 years over 54 hours per week, before 8 A. M. or after 7 P. M., § 161	229	216
Cease allowing children under 16 years to operate elevators (Penal Law, § 485).	1	1

* When the number of orders complied with exceeds the number of orders issued, the figures include orders of the fiscal year 1910–1911 complied with during the fiscal year 1911–1912.

ORDERS AND COMPLIANCES.—(*Continued.*)

IV. WOMEN AND MINORS.

	Orders issued.	Orders complied with.*
Cease employing females under 21 years over 60 hours per week or after 10 P. M., § 161	220	199
Cease employing messenger under 21 years after 10 P. M. or before 5 A. M., § 161-a	1	1
Provide seats for females, § 170	41	41
Total	3,333	3,181

4. PROSECUTIONS UNDER THE MERCANTILE LAW.

OFFENSE. (With reference to section of Labor Law violated.)	RESULTS TO SEPTEMBER 30, 1912. No. of cases.	Pending.	Dismissed or acquitted.	Withdrawn.	CONVICTED. Sentence suspended.	Fined.	Fines.
(*A.*) *Proceedings Instituted Before October* 1, 1911.							
II. SANITATION:							
Failure to provide additional or separate water-closets, § 168	2	.....	.....	.....	.....	2	$50
Failure to ventilate water-closets, § 168	1	.....	.....	.....	1	.....	.....
III. CHILDREN:							
Employing child under 14, § 162	19	.....	.....	.....	12	7	620
Employing child under 16 without Board of Health certificate, § 162	27	.....	6	.....	16	5	100
Employing child under 16 before 8 A. M. or after 7 P. M., § 161	20	.....	.....	.....	11	9	245
IV. WOMEN AND MINORS:							
Employing female under 21 after 9 P. M., § 161	2	.....	1	.....	1	.....	.....
Total	71	.....	7	.....	41	23	$1,015
(*B.*) *Proceedings Instituted in Current Year.*							
I. ADMINISTRATION:							
Interfering with deputy mercantile inspector, § 43	1	1	.....	.....	.....	.....	.....
Refusing to give information to deputy mercantile inspector, § 43	2	.....	.....	.....	.....	2	$40
II. SANITATION:							
Failure to provide additional or separate water-closets, § 168	1	.....	.....	.....	1	.....	.....
III. CHILDREN:							
Employing child under 14, § 162	195	9	10	.....	128	48	1,070
Employing child under 16 without Board of Health certificate, § 162	179	13	18	1	105	42	955
Employing child under 16 before 8 A. M. or after 7 P. M., § 161	128	4	4	*5	79	36	1,005
Failure to prove age of child, § 167	3	.....	2	1	.....	.....	.....
IV. WOMEN AND MINORS:							
Employing women and children in basement without permit, § 171	1	.....	.....	.....	.....	1	50
Failure to provide seats for females, § 170	3	.....	.....	.....	1	2	80
Employing messenger under 21 after 10 P. M., § 161-a	1	.....	.....	.....	1	.....	.....
Employing females under 21, or minors after 10 P. M., § 161	41	5	2	.....	22	12	275
Total	555	32	36	7	337	143	$3,475
Grand Total	626	32	43	7	378	166	$4,490

* Cash bail forfeited in each case.

5. COMPLAINTS.

SUBJECT OF COMPLAINT.	Sustained.	Not sustained.	Total.	Thereof anonymous.
II. Sanitation.				
Lack of water-closets	10	5	15	9
No lunch hour	2	1	3	2
General sanitary conditions	2	2	4	1
Basement not ventilated	1	.....	1	1
III. Children.				
Employment of children under 14	29	38	67	24
Children 14 to 16 working without certificate	11	34	45	5
Children 14 to 16 working before 8 A. M.	8	14	22	3
Children 14 to 16 working after 7 P. M.	15	27	42	11
Children 14 to 16 working over 54 hours per week.	7	5	12	6
Children 14 to 16 working over 9 hours per day	.....	2	2	1
Children 14 to 16 working over 6 days a week	.....	2	2	1
IV. Women and Minors.				
Women under 21 working after 10 P. M.	3	4	7	5
Women under 21 working over 60 hours per week.	4	2	6	3
Women under 21 working over 10 hours per day.	1	.....	1	1
Lack of seats for females	2	4	6	4
Total 1912	95	140	235	77
Total 1911	122	100	222	81

APPENDIX V.

ANNUAL REPORT OF BUREAU OF INDUSTRIES AND IMMIGRATION.

Hon. John Williams, *Commissioner of Labor, Albany, N. Y.:*

Sir.— The second year of the Bureau of Industries and Immigration sees it an accomplished experiment, with its policies and field of work well defined, with its appropriation sufficient to accomplish the minimum amount of work required by law, and all of its divisions in charge of trained experts who are faithfully discharging their duties. It has also served its two-fold initial purpose, of dealing with the conditions and needs of alien residents of the state and in serving as a model for other states. The New Jersey Immigration Commission and the California Immigration Commission will recommend to their legislatures in 1913 the establishment of bureaus with similar powers, and the enactment of similar laws safeguarding the aliens within their state limits. Massachusetts and Illinois will pass upon bills creating state immigration commissions, and Pennsylvania will pass upon a bill creating an immigration bureau. The five states receiving four-fifths of the immigrants will thus be the first to adopt the domestic policy of dealing with admitted immigrants, which New York State, through its Commission of Immigration and Bureau of Industries and Immigration, has urged with such success during the past four years.

The work of the bureau has been carried on this year with no increase in its general force, which consisted of five investigators other than the appointment of an additional three investigators for lodging places for six months beginning April 1st. Only the interest and devotion of the entire staff has made the amount of work accomplished possible, considering the great distances to cover within the state and the variety and complexity of the work done.

The Legislature of 1912, appreciating both the need and the immensity of the task before this bureau, increased its force from 11 to 23. This makes it possible for the bureau to carry out the duties laid upon it and to realize somewhat of the vision of its usefulness.

The work of the bureau is now carried on in four divisions: (1) Administration, which has charge of the main and branch offices, general supervision of division chiefs, and hearings. This constitutes the planning department for the whole work. (2) Conciliation, which is in charge of a counsel, with two assistants, one for criminal matters and one for civil cases, the last named being a representative of the Legal Aid Society. This division has charge of all complaints and matters relating thereto. (3) Investigations and Inspections, in charge of two supervising investigators, one for the eastern and the other for the western division. These supervising investigators have general charge of the field work and field men. (4) Education and Publicity, in charge of a secretary, who has general charge of all publications, press statements, statistical work, educational work among aliens and all governmental negotiations and consular adjustments.

This division of the work enables the bureau to meet all of the mandatory provisions of the law and to take up for the first time the wide extension of its work throughout the state.

Division of Conciliation.

The duties of counsel and rules and regulations for hearings and settlement of cases have been formulated and tested and now constitute a working body of regulations. All complaints are immediately referred to the counsel, who draws up the necessary affidavits and takes such action as he deems necessary. Usually the respondent is requested to call for a conference, when the matter complained of can be thoroughly discussed and an adjustment made, or the issues clearly defined, before commencing court proceedings. Where no reply is received or where the facts at hand are inadequate, the matter is assigned for thorough investigation and full report. If all the facts obtained uphold the complainant's contention and the respondent declines to adjust the matter, all the papers in the case are referred to the Legal Aid Society representative for the necessary court action, and advice and information.

Complaints.— The complaints enumerated below refer to matters that are distinctly in the nature of grievances — such as exploitation, misrepresentation, fraudulent practices and illegal

transactions, and are to be distinguished from general inspections, investigations and studies carried on by the bureau. In each case there has been at least one complainant, most of them having called at the bureau office to file their complaints. There have been a total of 1,112 complaints made by 1,140 different persons, involving 844 investigations and 65 hearings. It has been necessary to refer only 78 of these to the Legal Aid Society representative for legal action, as in the majority of cases settlement was made through the bureau's intervention. Where no remedy at law was possible and where the respondent declined to adjust the matter, the complainant was generally referred to some private agency which interested itself in his welfare and endeavored to give him a new start in life. Owing to the constant change in the complainant's residence, or his departure from the United States, but few court adjudications were possible, although 15 civil suits were brought, 12 criminal prosecutions were commenced and 9 convictions obtained. Of the total number filed, 135 related to transportation; 66 to legal affairs; 262 to savings; 454 to labor and industrial matters and 195 to miscellaneous matters.

Of the 135 transportation complaints, 31 related to the robbery and overcharges of emigrants by runners, porters and expressmen on the steamship docks and railroad terminals; 49 to overcharges and ill-treatment in immigrant lodging places, and 55 to the sale of steamship tickets and misrepresentations concerning them. Complaints against immigrant lodging place keepers were immediately adjusted under the power vested in the bureau by virtue of chapter 845 of the Laws of 1911, as amended. The steamship ticket complaints were generally adjusted satisfactorily, as the complainant usually remained in this jurisdiction. In the cases against runners and expressmen, however, action was often impossible, as the complainant generally sailed before prosecution could be commenced. However, warrants of arrest for petit larceny were obtained against two expressmen, one of whom was tried and sentenced to one year's imprisonment in state prison, while the other was held for Special Sessions — the complainant, however, leaving the jurisdiction before trial. In two instances, licenses of expressmen operating at the steamship and railroad terminals,

were suspended by the Bureau of Licenses on charges preferred by this bureau.

Of the 66 complaints filed under Legal Affairs, 31 were against lawyers or persons advertising themselves as such; 21 against foreign collection and information bureaus, and 14 against notaries public. In some it was found on investigation that collections had already been made by the agent here, but that the money had been wilfully withheld from the client. On the bureau's intervention, however, all such matters were immediately adjusted. Court action in many of these would have proved valueless, as the complainants generally resided outside the jurisdiction of the state — a few of them being residents of Canada.

The 262 complaints filed under Savings related in 141 instances to the withholding of deposits and the non-transmission or non-delivery of money by private bankers; 42 fraudulent real estate transactions, as failure to locate property purchased, worthless deeds, etc.; 21 loans, and 58 frauds of every conceivable nature. The bank complaints often involved the tracing of transmissions, examination of foreign documents and communication with foreign postal authorities through the foreign consuls, before action could be taken. Laborious investigations were undertaken in the real estate complaints, most of which alleged that worthless property had been purchased through the medium of enticing advertisements. On account of the ineffectiveness of the law no action was possible. Chapter 759 of the Laws of 1911 has greatly reduced the possibility of this form of exploitation. In several instances titles were searched and deeds rectified in order to obtain a clear fee to the property. The loans were settled civilly without much difficulty, while frauds were referred to the post office and other authorities, whose co-operation has been very effective.

Of the 454 complaints relating to labor and industrial matters 208 related to the non-payment of wages for work, labor and services rendered, settlement therefor being usually effected, while the remainder consisted of fraudulent representations of employment agents regarding terms and conditions of employment, overcharges and ill-treatment in labor camps, and personal injuries resulting from industrial accidents. Wherever possible, these were referred to existing authorities having the necessary jurisdiction or an attempt made to obtain an amicable adjustment.

Among the 195 miscellaneous complaints filed, 44 related to lost or withheld baggage, investigation of which usually required interstate and international correspondence and investigation; 19 were alleged cases of larceny; 20 involved domestic relations, frequently necessitating immediate relief and the friendly interest of the bureau for long periods of time; 16 involved the deportation law, which in several instances resulted in the deportation of insane, destitute and undesirable persons; 16 referred to immigrants lost while in transit from the port of New York and required the tracing of baggage and advertising in foreign language newspapers; 10 were white slavery cases which resulted, on the evidence of bureau investigators, in the final conviction of a procurer of immigrant girls, who was sentenced to from 10 to 20 years in state's prison at hard labor, and fined $5,000, and of two women charged with keeping disorderly houses — the trail leading directly to the activities of employment agents in this direction; 7 were assaults; 9 were extortion; 5 were partnership frauds; 2 were complaints against immigrant benevolent associations, one of which resulted in driving out of the state the organizers who had been using the Society for ulterior purposes; while 43 others cannot be easily classified. Two of these were complaints by girls against husband, wife and another woman, in which charges of assault and larceny were alleged. Upon investigation it was found that the girls had been lured to a den and drugged, were then robbed of all their savings, amounting to about $100, seduced, and kept confined in a room under constant guard. Husband and wife were finally convicted of larceny and sentenced to 5 years in state's prison, and the young woman committed to the House of the Good Shepherd.

Of the 78 cases referred to the Legal Aid Society, 37 referred to wage claims; 22 to loans and money had and received; 6 to personal injury cases; 4 to breach of contract; 3 to lost baggage; 2 to lawyers; 2 involving domestic relations and 2 to real property. Of the total, 35 were withdrawn at the request of the complainant as the result of a settlement entered into between him and the respondent after prosecutions had been undertaken. Judgment was obtained in 15 cases; 8 were settled at the instance of the Legal Aid Society representative; 3 developed into criminal transactions

and were referred to the district attorney for the necessary action; 13 complainants left the jurisdiction before the matter could be brought into court; and 4 cases are still pending.

There has been a great increase in the number of interstate cases, and the records of the bureau furnish a most conclusive argument for the creation of a Federal bureau to deal with interstate matters. Two hundred and thirty miscellaneous complaints were received from persons residing in 27 different states. Action was taken by the bureau where either of the parties was a resident of this state. Where, however, this bureau's jurisdiction did not extend, the complainant was referred to co-operating agencies throughout the country, such as immigrant protective societies, legal aid societies, charitable organizations, etc. Included in these were complaints of every description, involving wages, private banks, real estate, lost baggage, personal injuries, lawyers, collection agencies, steamship ticket agencies, etc. In one instance a lawyer residing in Ohio was charged with having recovered damages for personal injuries, then failing to account for same — the injured alien received nothing. Another residing in California gave a countryman, now residing in Tennessee, a sum of money to be turned over to the complainant's brother on the latter's arrival in the United States. The brother decided not to come, but the respondent has declined to return the money. Again, an immigrant residing in New Jersey complained that he had paid $80 to some one in Pennsylvania for the purchase of some goods, which, however, were never delivered to him. In another complaint against an iron mining company in Minnesota, it was charged that a miner had been killed while at work, but that the relatives abroad could not recover wages due at the time of death, or any compensation therefor. In a case of peculiar hardship and disillusionment, an immigrant residing in West Virginia, had invested his savings in some land in New Jersey on the strength of a brilliant advertisement setting forth the wonderful opportunities afforded. Later, he sold his effects in West Virginia and came to New Jersey to settle on his land, when, to his astonishment, he found it to be located on a barren sand dune.

Advice and Information.— During the year, 380 persons applied for advice and information. Of these 161 related to em-

ployment and were generally referred to reliable agencies able to place them; 47 to legal relationships about to be entered into by the applicant and often resulting in the prevention of his exploitation, as in partnership agreements, purchase of real estate, etc.; 24 to matters connected with immigration; 18 to agricultural opportunities, and the balance to naturalization, relief, savings, transportation, working papers, education, etc. Included in these were 25 requests received from aliens residing in other states. In every case the applicant was either referred to an agency especially interested in the information desired or was directly given friendly advice and assistance. This number does not include the many requests received and answered by mail.

DIVISION OF INVESTIGATION AND INSPECTIONS.

Being charged with the direct enforcement of certain laws and empowered to devise ways and means for the protection, distribution and welfare of the immigrant, general assignments for this purpose are made at various times during the year. A total of 1,821 inspections have been made, exclusive of investigations in connection with complaints listed under "Conciliation," and 603 miscellaneous violations of law, requiring 501 re-inspections, have been found. These are divided under: (1) Transportation: 81 railroad terminals, docks, ferries and coastwise steamers; 616 immigrant lodging places; 20 runners and expressmen, and 75 steamship ticket agents, exclusive of those doing a private banking business. (2) Legal Affairs: 45 notaries and study of activities of justices of the peace. (3) Savings: 253 private banks and real estate investigations. (4) Labor: 351 employment agents; 144 shoe-shining parlors for child labor violations, and 238 labor camps.

Railroad Terminals, Docks, Ferries and Coastwise Steamers.—The most complicated problem dealt with by the bureau involved the transportation of immigrants through the city of New York from railroad stations to steamship piers and vice versa. The 15 inspections made at railroad stations on the arrival of immigrant trains from western or eastern points, consisted of the careful observation of methods used by railroad officials in the handling of immigrant traffic and the actions of merciless runners, porters, ex-

pressmen and cabmen watching for their prey at the various terminals. Not only was protection and assistance rendered when required, but whenever it was found that the system in vogue did not effectively prevent the exploitation of immigrant passengers, conferences were arranged with the railroad company officials and suggestions made with a view to their ultimate betterment. As a result of this, two railroad companies now have ideal terminal facilities where the possibilities of exploitation have been reduced to a negligible degree. Conferences with other railroad companies for the improvement of terminal conditions are now pending.

Thirty-eight inspections were made on steamship piers on sailing mornings and on the discharge of second-class passengers. The conditions found were in many instances referred to the steamship companies with practical recommendations for the improvement thereof, and resulted in the drafting of more stringent rules for the proper handling of immigrants, and for the admission on the piers of persons unable to show proper credentials. Inspections of immigrant quarters on the coastwise steamers resulted in some instances in suggestions for their improvement, in better sanitary conditions and in more effectual segregation of the sexes.

Immigrant Lodging Places.— Due to the fact that no investigators were available for this work until April 1, 1912, when a special appropriation for the employment of three investigators for a period of six months was obtained, a vigorous enforcement of this law has covered but half of the year, as the duty of investigating such places during the first six months of the year devolved upon the already overburdened five investigators available for all of the bureau's field work. To relieve the field force from the necessity of originally locating places, the co-operation of police and other officials was obtained and lists for the different sections of the state prepared. These were gradually increased and added to through the bureau's original inspections and inquiries, and within the year a total of 1535 names and addresses of alleged immigrant lodging place keepers were listed. Application blanks together with detailed information regarding the provisions of the law in a foreign language as well as in English, were forwarded to all of them with the request that the applications be properly

filled out and executed and then returned to this bureau within a specified limited time. As many of the lodging place keepers were themselves foreigners, unable to read or even understand English, it soon became necessary to assign the bureau investigators to explain the purpose and requirements of the law and to obtain bonds, references, etc. As the work of enforcement proceeded, another difficulty arose. In small villages or camps with no resident surety companies and the difficulty in obtaining bondsmen, and among private families struggling for a livelihood, it was soon found that the provision of the law requiring the filing of a bond wrought a distinct hardship. Accordingly, as soon as possible, on April 19, 1912, the law was amended so as to require the filing of a bond in the discretion of the Commissioner of Labor. The process of licensing became simpler and resulted in a more rapid enforcement of the law.

Many immigrant lodging places conducted by private families were found in labor camps and in small communities. Here, the boarding boss, usually employed as a laborer in the camp, can give no time to the conduct of his place. All the duties of the house, such as washing and mending their clothes, cooking their meals, keeping the house and bedding clean, naturally devolve upon his wife, frequently the mother of 5 or 6 children. The care of from 5 to 15 lodgers by a single woman is a constant drain on her vitality and shows its disastrous effect on her offspring. It is a common sight, in the larger camps, to see young children rolling around in filth, many of them suffering from contagious skin diseases induced by the unhealthy surroundings, and all of them displaying signs of neglect and lack of proper nourishment. This is generally due to inadequate living quarters. In order to live in the camp in a company house, or one conducted by the padroni, families *must* keep lodgers, and as many as can be are crowded into each house. To educate both the employers or owners of the houses, as well as the laborers themselves — rather than through severe prosecution — and to bring them up to a higher standard of living, has been the bureau's chief aim. If the quarters provided were inadequate, conferences were entered into with the owners with a view to the erection of new buildings. If the fault lay with the family, an effort was made, through patient explana-

tion and slow, steady instruction, to induce the harboring of a minimum number of lodgers. The smaller the number of lodgers, the greater the amount of time the mother could devote to her children. The protection of the health of the overworked alien woman — the mother of the future American citizen — is a problem which can no longer be neglected. A higher standard of living has been promoted, overcrowding has been considerably eliminated, and the family life has been improved in all licensed places, as a result of this policy of education. In the cities, the constant surveillance of the licensed transfer houses by means of night and early morning inspections, has created a previously unknown sense of responsibility among all of them, and has almost entirely eliminated overcharges and ill-treatment.

A total of 188 licenses have been issued during this period of time. Twenty-three of these are transfer houses in New York City, where thousands of emigrants are constantly cared for prior to sailing abroad. About 175 general inspections have been made of the licensed places, while 441 additional inspections have been made of the places originally alleged to have come within the meaning of the law, but which resulted in the exemption of about 150 of them, while 186 could not be located.

Forty-nine complaints involving 90 investigations have been filed with the bureau against licensed lodging places, most of them being against the New York city transfer houses. In the main, they stated that more than the approved rates had been charged, that runners connected with the licensed houses had misdirected or neglected them, that they had been ill-treated, etc. Whenever possible, an immediate investigation was made and in several instances restitution obtained. Where the unsanitary condition of a lodging place was complained of and not remedied, it was referred after investigation to the Department of Health for the necessary action, licenses being withheld in four instances until such violations had been removed. In the case of the largest of the transfer houses in New York City, handling over 30,000 passengers a year, investigations were carried for four or five months and sufficient evidence of wrongdoing, ill-treatment and overcharges obtained, to warrant the bureau to decline the issuance of a license unless immediate alterations to the house were made

and the personnel of some of its employees changed. Unwilling to comply therewith, the house was compelled to immediately discontinue its lodging place business. The effect of this was felt throughout all the licensed places in the city, and every suggestion for improvement of conditions or of checking and accounting systems was immediately complied with. Most of these city transfer houses are now licensed, are being kept in a cleanly and sanitary condition and have been compelled to weed out their unscrupulous and undesirable employees.

In small communities, camps, etc., the enforcement of this law has reduced congestion, has provided sanitary environments and has generally tended to create better living conditions. Where immigrant lodging places in small communities or camps were owned by the employers, the latter's coöperation was invariably obtained, and in ten such communities the old, dirty, tumbledown shacks were destroyed and supplanted by modern, sanitary and comfortable dwelling-houses. In one city having a large foreign population, about 75 per cent of the total number of residents, and containing many boarding-houses for the men employed in a steel plant, a strict enforcement of the law resulted in the reduction of the number of boarders kept and in setting a higher standard of morality. In one case where the wife of a licensee was convicted of keeping a disorderly house, the license was immediately revoked and the business discontinued.

Four criminal prosecutions have already been brought in order to test the various provisions of the law. In one the meaning of the term "temporary sleeping quarters" was determined; another tested the right of inspection of lodging places believed to come within the meaning of the law, while a third determined the nature and quantity of legal evidence required in order to obtain a conviction for a violation thereof. In the fourth case brought into court, the constitutionality of the law was attacked, as well as the question of the extent of the bureau's power to decline to issue a license to a person whose moral character was not satisfactorily established. The defendant, conducting an immigrant lodging place in a city having a large foreign population and containing a number of similar lodging places, formally applied for a license. Not being satisfied with the moral character of the

applicant, his application for a license was not approved and he was ordered to discontinue this business. To evade the law, his wife then formally applied for a license, which was also declined. On finding that they still continued to conduct this business, a warrant of arrest was obtained and after considerable litigation, both husband and wife were convicted of a violation of this law before Supreme Court Justice Charles B. Wheeler and a jury. Sentence was suspended on condition that the lodging place business be immediately discontinued. With these judicial determinations definitely settling the meaning of the law and the quantity and quality of the evidence required, the bureau can now intelligently enforce its provisions.

Steamship Tickets.— The enforcement of the steamship ticket law was attempted in three distinct directions: (1) Chapter 415 of the Laws of 1911, requiring the posting of certificates of authorization and prohibiting false or misleading advertisements. (2) Chapter 578 of the Laws of 1911, requiring that all persons selling steamship tickets must be either licensed by the state comptroller or duly authorized as agents of steamship companies. (3) Chapter 575 of the Laws of 1911, prohibiting the collection of steamship tickets from outward bound passengers by runners, porters, hotel guides and other employees.

The business of the steamship ticket agent is usually carried on by a private banker who is also a notary public. At the time of the 253 private bank inspections, it was also possible to inspect their steamship ticket business, while 74 additional inspections were made of agents engaged in the steamship ticket business exclusively. A total of 137 violations of the law were found: 36 of chapter 578 and 101 of chapter 415.

Special attention was devoted to misleading advertisements regarding the price of steamship tickets and descriptions of steamers, as it was found that this caused much suffering to departing aliens. All foreign newspapers were carefully scrutinized, and wherever necessary the advertiser was notified that he was violating the law and ordered to immediately remove his advertisement or change the wording thereof to comply with the actual facts. The coöperation of the steamship companies was obtained and in some instances agencies were revoked when it was

found that the agent was flagrantly violating the rules of the company. In making inspections, all printed forms, circulars, etc., issued by the agent were obtained, and when found containing statements in violation of law they were ordered destroyed. Where it was found that tickets were being sold by unauthorized and unlicensed individuals, the sale thereof was immediately discontinued.

The enforcement of chapter 575 of the Laws of 1911 is in reality an adjunct to the regulation of licensed immigrant lodging places. When it was found that a hotel runner or guide had collected tickets belonging to the passengers consigned to his hotel or lodging place (thus compelling the immigrant to remain in that hotel), the matter was immediately taken up with the licensee, and in the more flagrant cases the runner or guide was discharged. Although no prosecutions were commenced, the moral effect of this law cannot be estimated, as the control of the runner or guide over his prospective lodger is now very much lessened.

Legal Affairs.— The business of 43 notaries public was investigated in addition to all those doing this business in the offices of or in connection with the 253 private banks inspected. Violations of section 1820-a of the Penal Law were found in 27 instances, in that they were holding themselves out as notaries public or advertising themselves as such without being duly commissioned therefor. Such misrepresentation by unscrupulous individuals becomes a serious evil, as notaries abroad are vested with considerable judicial power, which the average immigrant also believes to be the case in this country. Their power for wrongdoing grows to tremendous proportions when one realizes that they are often entrusted by resident aliens, through powers of attorney, with the sale of property abroad, the collection of foreign inheritances, etc. Compliance with the law was obtained in every instance.

In the course of the inspection of a large foreign community which has grown up close to one of the largest mines in the state, bureau investigators were informed by the employees thereof that a system of graft had been developed as between the various grades of employees in that regular payments were made to foremen and superintendents in order to remain in the company's

employ or obtain a promotion to a better paying position. To get at the root of the evil, a series of hearings and investigations were held. With the help of the local labor union, the matter was then officially brought to the attention of the company and in due course the general superintendent and thirteen foremen were discharged. As legal evidence of the commission of the crime of extortion or bribery could not be obtained, the same was submitted to the district attorney of that county. In the course of this investigation charges were also made against two of the justices of the peace, having jurisdiction over this mining camp. The disclosures were so startling and the trail was so direct that 58 hearings were held and 84 persons examined, 655 pages of testimony having been obtained. It was evident that money had been extorted from immigrants under threat without any record thereof being made in the justice's criminal docket, that bribes were accepted to influence decisions, while fees and fines were not accounted for to the local authorities as prescribed by law, records were not properly kept, etc. A summary of this mass of testimony was referred to the attorney-general with the suggestion that proceedings be commenced for the removal from office of both justices. Final action has not yet been taken as the appellate courts have but recently convened.

Private Banks.— The vigorous prosecutions commenced and determined during the first year of the bureau's work in the enforcement of the private banking law, forced a number of the so-called "private bankers" to retire from the private banking business and to engage in other enterprises in no way connected with the savings of immigrants. Two hundred and fifty-three bank inspections were made during the year; 26 of these were found to be violating the private banking law proper, but when notified thereof, immediately became the authorized agents of express companies or transatlantic steamship companies for the purpose of transmitting money abroad; 51 were advertising the word "bank" without being under the supervision of the State Superintendent of Banks, and thus violating section 302 of the Penal Law. Here again, compliance was immediately obtained upon formal notification of the violation. Evidence of the transmission of money without proper authorization was obtained

against four private bankers, who were transmitting money through their *own* correspondents abroad despite the fact that they had been previously notified that this was prohibited by law. In one case, sentence was suspended on immediate compliance; an indictment for grand larceny was found against another, but the defendant is now a fugitive from justice; a third was referred to the state comptroller, and the fourth is still pending. In two instances, although the "bankers" were authorized agents of a steamship or express company and were apparently transmitting all moneys through such companies, it was found that they were secretly transmitting money through their own correspondents at the same time and accepting deposits of money for safekeeping from countrymen to whom they were personally known. Although these alleged transactions were carefully carried on so as not to create any suspicion, sufficient evidence to this effect was finally obtained through constant surveillance of their business and interviews with clients and clerks. As prosecution was about to be commenced, both bankers immediately signified their willingness to comply with the law. The result of the bureau's investigations were referred to the state comptroller's office, and in due course both were licensed under the private banking law.

Again it was found that four private bankers, who had been licensed during the *first* year of the life of this law, had applied for and had become exceptants thereunder upon the filing of affidavits to the effect that the average amount of *each* sum deposited or transmitted abroad by each of them during a fiscal year exceeded $500. Being aware of the nature of the business conducted by these private bankers, and knowing that the majority of immigrants deposit small sums of money, usually ranging from $5 to $100, inspections of the books of such bankers were made in three instances. From a transcript thereof for a short period of time, it became evident that the average sum of each deposit was even less than $100. In two instances, conferences were held with the bankers and the state comptroller, and in due course both recalled their affidavits, renewed their licenses and again became subject to the supervision of the state comptroller. One case is still pending, while the other declined

to permit the bureau investigators to inspect his books. The question of the bureau's authority to compel private bankers to open their books for inspection is now under advisement. In the case of two "bogus" express companies, that had become incorporated in order to evade the provisions of the law, bureau investigators by interviewing customers and clients, learned that money for transmission abroad was being accepted. Before the evidence could be whipped into shape, however, the owners had absconded, leaving many deposits and transmissions unaccounted for.

In addition to the general inspection of each private banker, working agreements to eliminate the unscrupulous and irresponsible agent were entered into between this bureau and the express and transatlantic steamship companies that authorize their agents to accept money for transmission abroad. When serious complaints were received against such agents, the company through whom the transmissions were made was notified thereof, and in several instances agencies were revoked and the banker practically driven out of this business.

Real Estate.— Immediately upon the passage of chapter 759 of the Laws of 1911, which prohibited the offering of prizes of land on the solution of a puzzle, the foreign language newspapers were carefully scrutinized and all suspicious advertisements therein translated. Fifty-six such advertisements were investigated. Frequently bureau investigators, impersonating immigrants, called at the offices of such companies and obtained full details of the land in question. Later, careful inspections were made of the land offered for sale in order to learn whether the statements contained in the advertisements were in accordance with the actual facts. Great difficulty was experienced in obtaining legal evidence on account of the bureau's inability to actually enter into the purchase of real estate for this purpose. Documents and results of investigations were in a few instances referred to the district attorney and placed before city magistrates, but prosecutions could not be commenced for lack of legal evidence. Finding it impossible to prosecute, conferences were held with representatives of the various foreign newspapers and their coöperation obtained for the elimination of all questionable

advertisements. As a result thereof, copies of proposed advertisements were frequently submitted to the bureau for investigation. The reports rendered caused the wording to be changed in accordance with the facts or the advertisement was refused.

Employment Agencies.— In order to properly enforce the provisions of section 155 of chapter 514 of the Laws of 1910, which requires that all employment agencies should be registered with this bureau and that certain specified records be kept, 351 inspections were made. It was found that 207 employment agents were not keeping the records required. These were duly notified that unless the law was complied with immediately, prosecutions would commence. In one instance, a warrant of arrest was obtained and the defendant discharged on condition that the records be kept in the future. In the course of these inspections 65 agents were located who were violating various provisions of chapter 700 of the Laws of 1910, providing for the licensing and regulation of employment agents in cities. These were immediately referred with all evidence obtainable to the mayors or commissioners of licenses of the respective cities.

Chapter 700 of the Laws of 1910 refers only to employment agents in cities who accept payment of fees for such services. Thousands of laborers are sent out of such cities during the year to labor camps and small communities throughout the state. As municipal authorities have no jurisdiction beyond their corporate limits, complaints arising from misrepresentations and misstatements as to the terms and conditions of labor cannot be investigated in the absence of the complainant from the city, and often results in serious loss and hardship to the alien laborer. Padroni, commissaries and labor agents, obtaining immigrant help for such labor camps and in small communities, are at present not regulated and under no supervision, and are accordingly allowed to act according to the dictates of their own conscience. Usually, ignorant, illiterate and avaricious, such padroni bring their men to the place where the work is to be performed under serious misrepresentations without funds; they are held against their will until sufficient wages have been earned permitting them to leave. These so-called "labor agents" are usually in league with licensed employment agencies in cities where the laborers

are generally obtained, but with the complainant out of the municipal jurisdiction, it is almost impossible to bring the licensed employment agent to task. Even though the living and economic conditions are found to be contrary to the representations made, the alien laborer has no redress, as the padrone is all powerful. It has been found that almost six times as many contract laborers are sent to places *outside* of the cities as within them. In the course of the bureau's work in about 40 counties of the state, 39 such padroni having privileges in 59 camps were found. All were charged by various contractors on public works and transportation lines, with the full responsibility of obtaining a sufficient number of laborers for the work to be performed. In return therefor, the padroni was given the privilege of housing the men and providing them with their commissary supplies at his own prices and in accordance with such standards as he himself might set. The laborer thus finds himself absolutely at the mercy of an unscrupulous padrone, who is under no supervision and who fears no law.

Shoe-shine Parlors.— One hundred and forty-four shoe-shine parlors were inspected in order to detect violations of chapter 866 of the Laws of 1911, which prohibited boys under 16 years of age from working in shoe-shine parlors and to ascertain the conditions of labor. The padroni system has become strongly intrenched in this trade, young boys being often brought to this country in violation of the immigration laws, and apprenticed to the padroni for a term of years. Wherever boys appeared to be under sixteen, the matter was referred to the Bureau of Mercantile Inspection of this Department for the necessary action.

The shoe-shine boy, especially among the Greeks, is usually between 16 and 18 years of age, and averages between $8 and $10 per month with board and lodging. With no relatives or friends in this country with whom he can live, he is provided with his meals and sleeping quarters in a room or two rented by the "boss" or padrone in the vicinity of the "parlor," which he learns to call his home. Tips received by the boys are in most instances placed by them in a separate receptacle at the end of the day and taken up by the "boss." Wages are frequently withheld for months, so that the boy cannot leave if dissatisfied, and is forced

to remain at his work indefinitely. The hours of work are ostensibly between 7 in the morning and 10 at night in the tenement districts, but in some cases it has been found to last from 6 A. M. until 11 P. M., every day in the week. With all his time taken up in the "parlor," and without the slightest Americanizing influences at work in his behalf, his lot is indeed a pitiable one. Conferences have been held with the majority of the bosses and individual talks have been had with each of them with a view to a general systematic closing of their parlors for at least one-half a day per week, or a suspension of evening work on four nights a week in order to give the boys an opportunity to attend classes for foreigners, but all attempts have proven futile. Competition is so great that each mistrusts the other and fear that a mere understanding to this effect would not be sincerely carried out by the others. With but few exceptions, the majority of the proprietors of shoe-shine parlors have stated that they would favor the passage of a law which prohibited the employment of boys on Sunday afternoons.

Labor camps.— Labor camps may be divided into three great groups; public works, industries and transportation lines. Of these, the public works (barge canal, highway and aqueduct camps) and transportation lines (railroad construction camps) are of a temporary nature, while the camps conducted by private industries (such as mines and quarries, brickyards, canneries, fertilizer plants and paper and pulp mills) are generally permanent camps.

On account of the temporary nature of the public works and transportation camps, it had previously been found that but little effective work could be accomplished in them. Before the machinery of the various authorities could be set into motion, the camp had changed its location as the work progressed, or the particular work contracted for had neared completion. It was, therefore, decided at the outset to devote the bureau's energies to inspections of the *permanent* labor camps, where plans for gradual systematic improvements could be made. With this in view, the state was districted according to counties, an investigator becoming responsible for the thorough inspection of all immigrant colonies and settlements within the counties assigned to him.

About 40 counties were thus covered throughout the state, most of the spring and summer being devoted to the counties which had not been inspected the previous year. On account of the small field force, it was impossible to cover the balance of the state. Schedules showing in detail the general living, industrial, economic, educational and social conditions were filled out for each camp, special attention being devoted to housing, sanitation, and methods of deduction from wages.

Only 7 barge canal camps and 59 out of 200 highway camps, as these are largely temporary camps, were inspected. With but few exceptions the alien laborers were crowded together, without any sanitary provisions, in filthy shacks or dirty tents. In most cases from 25 to 100 men were frequently employed at a single camp, but no toilets had been erected, while garbage, refuse, etc., were strewn at the very doors of the shanty.

Although not vested with any direct remedial powers, 87 contractors were notified of the existing conditions with suggestions and recommendations for the improvement thereof. Replies were generally received from the contractors to the effect that an immediate investigation would be made and the suggestions acted upon. In some instances, however, the contractor disclaimed all responsibility for the unsanitary living conditions, stating that, "this is up to the commissary man." This means that the contractor had originally referred the entire question of providing adequate living quarters for his employees to an irresponsible and often unscrupulous padrone. The effect of this shifting of the responsibility for the physical well-being of hundreds of men, was in evidence in every camp inspected. The padrone, who is usually the labor agent, answerable to no one and under no supervision, obtained and provided the men for the job, forced them to buy their provisions at his store and sent unitemized amounts of the purchases to the contractor. The latter then automatically deducted the same from the laborers' pay checks without any attempt being made to first check them up or to have them verified by the laborer. Realizing that the employment was of but short duration, the padrone's cupidity resulted in the erection of cheap tents or in the renting of old, abandoned and neglected barns or farmhouses as living quarters for his ignorant charges. In a few

instances, at the request of the contractor, the padrone's attention was also called to these conditions, but invariably no reply was received, showing most clearly his absolute disregard for the health and protection of the men brought by him to the camp and often to this country. In many of the camps visited, it was often found that the responsible persons had never even visited the living quarters of their alien employees and were not aware of the real conditions. On account of the small force of field men available for this work, it has been generally impossible to reinspect these camps for the purpose of learning to what extent improvements have been made.

Industries.— Sixty-three mines and quarries, 26 canneries, 20 brickyards and 3 fertilizer plants were inspected. Wherever the general conditions were found to be unsanitary or the living quarters inadequate, the attention of the owners of the houses was directed thereto. Invariably, the improvements and sanitary precautions suggested were carefully carried out. Systems for the collection and disposal of garbage were installed, ditches to drain off the waste water were dug, new toilets were erected and houses were thoroughly cleaned out and in some instances entirely overhauled and new ones built. The laborer in a permanent camp frequently makes the place his home, lives there with his wife and children, and usually keeps a few countrymen as boarders or lodgers. With the aid of the immigrant lodging place law, it was not a difficult matter to enforce complance with the bureau's orders. Private owners, with but few exceptions, were thoroughly co-operative and grateful for suggestions made, and usually realized that the improvement of their employees' living quarters and of the sanitary conditions of the camp would tend to better satisfy them and induce them to remain more permanently at their work.

In the case of one large iron mine, where over 1,000 immigrants were employed, the owners had requested the co-operation of the bureau in making a thorough survey of the foreign community which had grown up around their plant. This was undertaken with the understanding that the recommendations made for the improvement of the social and sanitary conditions therein would be immediately acted upon. A house to house canvass was then commenced, a census taken and a detailed study made of the hous-

ing conditions, sanitation, water supply, etc. At the same time the educational facilities and the causes for the many infractions of the law by the aliens, were inquired into. In the study of the living conditions it was found that many of the houses were in need of repair; that there was over-crowding among the private families due to the number of boarders being kept; that out-houses were inadequate and vile with human excreta; that live stock, such as cows, pigs and chickens, were allowed to roam about at the very doors of the homes; that the water supply was inadequate and frequently at some distance from the house; that waste water was thrown around the houses, forming contaminated pools, and that garbage and refuse was gathered in heaps around the kitchen doors. It was further found that there were no educational facilities for the children of kindergarten age, and that no social activities had been undertaken of any value or interest to the foreigners, although a large hall for social activities was available. As a result, their tremendous energies were devoted to drunken brawls, which frequently resulted in their arrest. After careful consideration, a comprehensive series of detailed recommendations were made embracing improvements in the living conditions, health, housing, education and social welfare of the community. In a recent re-inspection, the place was almost unrecognizable — so many improvements having been made. It was found that eight new large concrete houses were being constructed to relieve the congestion; that many of the old ones had been repaired; that small out-houses had been put up to house the live stock and partitioned off for use as store rooms; that receptacles for the collection of the excreta had been placed in the toilets under the seats; that the water had, in many instances, been drawn into the houses by means of pipe lines; that sinks and cess-pools had been constructed to carry off the waste water, and that the garbage and refuse was being collected in barrels and carted off to an incinerator which had been erected some distance away. In addition to these concrete and practical improvements, a domestic nurse and educator was engaged under the supervision of the North American Civic League for Immigrants, which had heartily entered into this work. Frequently visiting their homes, the foreigners had commenced to respect this nurse, and had learned to take advan-

tage of her many suggestions for the improvement of their health. Women's clubs and children's clubs have been organized, and a sense of civic pride is now being gradually created. The company officials are delighted with the changes wrought, and with the decrease in drunkenness, while the foreigners have commenced to realize that others are interested in their welfare.

Similar requests for suggestions and recommendations have been received from other firms and corporations employing large groups of foreigners. These were acted upon in several instances, in cooperation with the North American Civic League for Immigrants, with the same results.

In the case of the canneries, where conditions were perhaps at their worst, but little improvement has been obtained. The surrounding grounds were frequently littered with filth, while the shanties and dormitories were so thoroughly congested that at times families of from six to ten members were compelled to live, sleep and eat in a single room. Nothing could be done to relieve the congestion as other quarters were not available. In several instances at the bureau's suggestion, the grounds were cleaned up, badly drained spots filled in, and a sanitary garbage disposal system installed. The limitations of the lodging place law having been defined by the courts, the bureau is now serving notice upon all canners that its provisions will be strictly enforced during the coming year in the matter of licensing and regulating all such lodging places.

Transportation.— Over 700 camps were maintained during the year by the various railroads in this state, a number of them, however, being camps for section gangs consisting of from but two to eight or ten laborers. To cover all of these in the short time allotted was a physical impossibility. Fifty-four typical camps were inspected along the road, in order to obtain a birds-eye view of the general conditions at *various* points along the line and to learn the methods in vogue in making deductions from laborers' pay checks, etc. Railroad camps are of two kinds: one, the small maintenance camp for section gangs; the other, the large construction camps for permanent road improvements, ballast work, etc. The small maintenance camps were generally found to be in fair condition. Some railroads had even erected small shanties con-

taining large windows for light and air as well as a toilet nearby. The worst conditions, however, were found in the camps housing large construction gangs where from fifty to two hundred men were employed at one time. Here, strings of box-cars numbering from five to twenty-five were used for sleeping purposes. Many of these were old, the interior, floors and walls dirty and littered with filth and the wooden bunks and bedding so vermin ridden that the men were frequently compelled to sleep outdoors. In some of these camps, portable toilets had been erected and pits dug for the burial of the garbage, but in most of them the men were compelled to use the fields, while garbage was strewn in heaps all around the cars, and waste water had formed contaminated pools.

In the case of two railroad systems, a detailed study of the general conditions was made and the co-operation of the companies' officials obtained — comprehensive recommendations being made for the improvement of the housing and living conditions of their alien employees along the entire road. The railroad companies, through their chief engineers, were generally co-operative and acted upon the suggestions for improving these conditions. This perhaps was partly due to the scarcity of labor and their wish to do almost anything that might possibly induce the laborers to remain in their service.

EDUCATION.

Distribution of Names of Children.— Acting under the powers conferred by subdivision 2 of section 153 of the bureau law, which requires that the names of newly arrived immigrant children of school age shall be distributed among the various school authorities in the state according to the respective localities to which said children are destined, in order to aid in the enforcement of the compulsory education law, this bureau distributed a total of 15,332 names. Of these, 13,129 were sent to the Permanent Census Bureau in Greater New York; 1,229 to the large cities, including Buffalo, Rochester, Syracuse, Albany, etc.; 691 to the small cities, and 273 to the rural districts.

This work will be more effective when the Federal government extends its co-operation and sends the names of children arriving at all ports and destined to New York State, as well as those arriv-

ing at the port of New York. The names and addresses of children admitted on a bond are now sent directly by the Federal government to the school authorities.

The appropriations providing for educational and publicity work did not go into effect until October 1st, so it has not been possible to take up the question of camp-school education, committed to the care of the bureau, by the legislature of 1912. The preparation and distribution of information to immigrants within the state have been neglected for the same reason, but a staff of three people is now at work on these educational matters. A study has been made of naturalization facilities within the state and their relation to educational work, and through recommendations made to the North American Civic League, the schools in a number of the large cities are introducing citizenship courses.

Legislation.— This consisted largely of strengthening the existing laws and remedying defects in the matters of requiring bonds from immigrant lodging-place keepers, this being made a matter of discretion to avoid obvious hardships in cases where the liability of the keepers was very small; extending the powers of the bureau in the matter of issuing subpœnas for persons and papers and in the matter of inspections; extending the provisions of the real estate law to cover puzzles and similar advertisements; including in the educational provisions of the bureau the power "to ascertain the necessity for the extent to which instructions shall be imparted to aliens within the state" and the repeal of an old law passed in 1848 regulating bookers which was unenforceable and in conflict with the regulations of the bureau.

The existing laws are, therefore, as strong as the present needs require, in the absence of any court decisions, construing the provisions of said laws.

RECOMMENDATIONS.

The second year's experience of the bureau has strengthened its belief in the necessity for the passage of its recommendations made in the report of 1911.

Unemployment.— The state is not dealing in any adequate manner with unemployment, and free employment agencies should be established in the various industrial centers of the state, and

the employment agency laws, now applicable to cities and enforceable by mayors, should be extended to the whole state. I, therefore, recommend the establishment of two new bureaus in the Department of Labor, one to deal with the administrative matters involved in conducting free employment agencies, and the other to deal with the matter of the regulation of private employment agencies. There can, in my judgment, be no system of distribution or coöperation with other states, which must necessarily include the ports of New York and Buffalo, until the state acts as a unit, instead of through a score of municipalities, each with a different conception of the importance and meaning of the unemployment problem and employment agency regulations. New York State offers the incoming administration an unparalleled opportunity to solve its most perplexing problem.

Labor camps.— Next in importance is the establishment of minimum standards of housing and sanitation in camps and industrial communities in unorganized districts. These include public works, quarries, mines, brickyards, transportation camps, canneries and other industries. There are thousands of them in the state where aliens are chiefly employed where the standard of living is a menace to the safety, health and morals of the people of this state.

I, therefore, recommend the following minimum requirements, to be enacted into law, enforceable by this bureau, applicable to all such communities:

1. Every employer of labor on any work in any lumbering, mining, construction, or other camp, sawmill, or other industry, in any portion of an unorganized district, or used for seasonal work, shall, upon the establishment of each and every camp for work, forthwith notify the Commissioner of Labor of the establishment of the same, and when requested to do so shall furnish such particulars as may be required by the said Commissioner.

2. The owner, manager, agent, or foreman of any lumber, mining, or other camp, sawmill, or other industry located within an unorganized district, or used for seasonal laborers, shall, in connection with every such industry or works, be responsible for the execution and enforcement of any regulation herein contained or hereafter to be adopted.

3. If in the opinion of the Commissioner of Labor the site of any camp or works is unhealthy or unsanitary, he may order the removal of such camp or works to some other site to be approved by him.

4. Any house, tent, or dwelling, or building, occupied by the employees engaged in any industry located within an unorganized district, or for seasonal labor, shall contain sufficient cubic feet of air space for every occupant thereof, and such arrangements of and provision for sleeping quarters as may in each instance be deemed necessary by the Commissioner of Labor, and shall further be provided with efficient means of ventilation. The floor of every dwelling shall be constructed of boards or planks or other material equally suitable for the purpose, raised on supports at least one foot from the ground, and so made that it shall be tight. Every dwelling other than a temporary tent shall be lighted by windows so constructed that they can be opened when necessary.

5. The method of ventilation of every dwelling in which a stove or furnace is used shall be such as will satisfy the Commissioner of Labor.

6. Every camp or works of every industry coming under these regulations shall be equipped with facilities for bathing and laundry purposes.

7. Every camp or works shall be supplied with a building or tent constructed and set apart as a kitchen and having a dining-room in connection therewith, with proper conveniences for the cleanliness and comfort of the employees.

8. Proper receptacles shall be kept on hand into which all refuse, whether liquid or solid, must be placed, and such refuse must be regularly destroyed by fire or removed to a safe distance from any building and be so deposited as to not create a nuisance or contaminate the drinking water.

9. Latrines, earth, or other closets must be located, constructed and maintained in a manner satisfactory to the said Commissioner of Labor.

10. Stables in connection with any camp or works must be located as not to contaminate the water supply, and must not be less than 125 feet distant from any dwelling or kitchen. This distance may be increased at the discretion of the Commissioner of Labor.

11. The water supply of any camp or works must be uncontaminated and obtained from a source satisfactory to the Commissioner of Labor.

Notaries public.— I again call the attention of the Executive Department to the necessity for regulating notaries public, requiring that they keep records of their transactions and that these be open to public inspection, and that provision be made for such inspection. The "legal papers" now issued by many such irresponsible officers, and the frauds committed through the issuance of powers of attorney and papers dealing with property located in foreign countries, are becoming matters of international importance. I also recommend in this connection the licensing by this bureau of all persons conducting collection agencies and business agencies for the purpose of settling estates abroad, settling legal affairs, securing release from military duty, etc., except

where such persons are duly admitted members of the state bar. These frauds now go on unchecked as the collection agent avers that he is the representative of a foreign lawyer where as a matter of fact when he gets a case he looks up in a guide book a lawyer in the territory where the case falls and asks him to conduct the foreign part of the transaction. He knows nothing about him and uses him as the excuse for his own dishonesty or nonperformance of his obligation. I refer to my report of 1911, page 105, for a fuller report on this matter, and urge that the state deal with this matter without delay.

Steamship Ticket Agents.— I also recommend that as the bureau has a staff speaking the foreign languages and is now inspecting practically all of the other activities of steamship ticket agents that the enforcement of the law requiring steamship agents to be licensed be transferred from the comptroller's office to this bureau and that authorized agents be included within the provisions of the law. It is the contention of the steamship companies that they are best able to regulate the practices of their agents. In this I cannot concur, since these agents conduct many side lines of business and it may well be that methods which help the lines and serve competition do not necessarily serve the best interests of the state, nor do they necessarily give the best services to the purchaser of tickets, whose protection is the immediate duty of this state.

Shoe Shining Parlors.— I strongly recommend that legislation be enacted prohibiting children and young persons from working seven days a week and believe that the only effective way to do this is to close such parlors on Sundays.

Land Investments.— Lastly, I recommend that a necessary measure to the success of distributing immigrants to the land is the safeguarding of such investments and the restoration of faith in our land propositions. These evils have grown so tremendously that the immigrant is becoming reluctant to buy a home or take up land. New York is one of the chief exploiting points, land being advertised here or papers circulated in the state which offer land in all parts of the country. I submit for your consideration a method discussed at the meeting of the National Conference of Immigration, Land and Labor officials held in

Chicago in November, as a basis for investigation or action. I urge that immediate steps be taken in this matter if this state is to preserve her reputation for the protection of the immigrant:

That this Conference urge upon the governors and legislatures of the states having land suitable for agricultural settlement, the necessity of adequate measures providing for the definite guidance of prospective settlers in finding land adapted to their needs, and protecting them against exploitation in the purchase of this land, with the following minimum standards:

(a) The voluntary registration of land available for agricultural settlement, with a description of the land accurately setting forth its location, quality, fitness for cultivation, prices and terms upon which it may be obtained.

(b) Publication of lists of land dealers so registered, the same to be revised periodically and furnished to all inquirers.

(c) The approval of the forms of contracts used by registered dealers in the sale or transfer of land to settlers.

(d) The inspection of all advertising material issued by registered land dealers and the cancellation of their registration for failure to comply with the minimum standard of accuracy of statement.

(e) The criminal prosecution of any land dealer whether registered or not, who is guilty of fraud in the sale of land to a settler, and the securing of all possible redress for the settler.

(f) The publication of accurate information with respect to the general opportunities for agricultural settlement in the state.

(g) The appropriation of funds sufficient to permit the effective performance of these duties.

Respectfully submitted,

(Signed) Frances A. Kellor,
Chief Investigator.

APPENDIX VI.

INDEX OF BILLS AND LAWS RELATING TO LABOR IN THE LEGISLATIVE SESSION OF 1912.

PREPARED BY THE BUREAU OF LABOR STATISTICS.

[Explanation.— Only the principal purpose and final stage of each bill are indicated; identical bills in Senate and Assembly are recorded as one: bills enacted into law are described in italic type; numbers in parentheses are "Printed," the others "Introductory," numbers. Abbreviations used are: S. or Sen. for Senate, A. or Ass. for Assembly, and Com. for Committee.

For a review and the text of the labor laws enacted in 1912 see the Department of Labor Bulletin for June, 1912.]

ADMINISTRATION OF LABOR LAWS.

To increase the number of factory inspectors to a maximum of one hundred and twenty-five. Senator Frawley, S. 673 (717) *and Mr. Phillips, A.* 955 (1054). *Approved April* 4, *as chapter* 158.

To increase the number of special investigators and other assistants in the Bureau of Industries and Immigration. Senator Foley, S. 1058 (1182). *Approved April* 18, *as Chapter* 543.

To give power to the Commissioner of Labor and his assistants to serve process in criminal actions, and including confidential agents, the mine inspector and the tunnel inspector among those entitled to administer oaths and take affidavits. Senator Wagner, S. 1111 (1284) *and Mr. Phillips, A.* 1503 (1849). *Approved April* 15, *as Chapter* 382.

To render violation of the labor law concerning the bureau of industries and immigration a misdemeanor. Senator Foley, S. 1082 (1227). *Approved April* 15, *as Chapter* 383.

To increase penalties for violation of the labor law. Senator Bayne, S. 863 (909). Codes Com.

To require the registration of all factories with the Department of Labor. Senator Wagner, S. 1147 (1321) *and Mr. A. E. Smith, A.* 1539 (1890). *Approved April* 15, *as Chapter* 335.

To authorize factory inspectors to appoint assistant factory inspectors who shall serve without compensation. Mr. Merrill, A. 1499 (1845). Ways and Means Com.

To provide for the removal of a tenant by the landlord for failure to observe the labor law. Senator Bayne, S. 689 (733). Codes Com.

HEALTH AND SAFETY.

(See also Woman and Child Labor and Hours of Work below.)

FACTORIES.

To extend the time of the commission to investigate manufacturing in cities. Senator Wagner, S. 372 (388) *and Mr. A. E. Smith, A.* 594 (616). *Approved March* 6, *as Chapter* 21.

To create a state board of experts in accident prevention and industrial safety in factories. Mr. Phillips, A. 1598 (1994). Labor and Industries Com.

To authorize the Commissioner of Labor to fix standards, with the approval of the Governor, for safeguarding of machinery in factories. Senator Bayne, S. 864 (910, 1502). Third reading.

To amend the law as to guards for machinery. Mr. Phillips, A. 966 (1062). Third reading.

To require that all revolving shafting in factories be encased. Mr. Walker, A. 459 (471). Labor and Industries Com.

To amend law concerning elevator guards, stairs and doors in factories. Mr. Jackson, A. 643 (670, 1426). Labor and Industries Com.

To require safety devices on elevators and licensed operators in charge thereof in cities of the first class. Mr. Boylan, A. 467 (479). Cities Com.

To require that all factories be provided with properly covered fire proof receptacles for waste materials; that all gas lights in factories be enclosed; and that smoking in factories be prohibited. Senator Wagner, S. 1171 (1349) *and Mr. A. E. Smith, A.* 1559 (1916). *Approved April* 15, *as Chapter* 329.

To prohibit lighted cigars, pipes or cigarettes from being carried into or used in factories. Mr. Goldberg, A. 285 (285). Codes Com.

To require an automatic sprinkler system in factories employing more than two hundred people above the seventh floor. Senator Wagner, S. 1172 (1350) *and Mr. A. E. Smith, A.* 1561 (1918). *Approved April* 15, *as Chapter* 332.

To require fire drills in factories in which more than twenty-five people are regularly employed above the ground floor. Senator Wagner, S. 1173 (1351) *and Mr. A. E. Smith, A.* 1560 (1917). *Approved April* 15, *as Chapter* 330.

To amend the law as to doors, windows, fire-escapes and exits in factories. Senator Wagner, S. 1217 (1441) and Mr. A. E. Smith, A. 1582 (1954). Vetoed by the Governor.

To authorize substitution of other safety devices in lieu of outside fire-escapes. Senator Ferris, S. 919 (1005, 1246) and Mr. Walker, A. 1086 (1229, 1499, 1675). Vetoed by the Governor.

To regulate the number of employees permitted on each floor of a factory with reference to safety from fire. Senator Wagner, S. 1216 (1440) and Mr. A. E. Smith, A. 1583 (1955). Vetoed by the Governor.

To require fire alarm systems and fire drills in factories and mercantile establishments. Mr. Brooks, A. 336 (338). Labor and Industries Com.

To provide increased protection in case of fire in factories. Senator Bayne, S. 865 (911). Labor and Industries Com.

To provide that factory buildings shall be of fire proof construction. Senator Wagner, S. 1170 (1348) and Mr. A. E. Smith, A. 1562 (1919). Sen. third reading; Ass. passed.

Similar bill by Senator Wagner, S. 1213 (1431) and Mr. A. E. Smith, A. 1576 (1945). Sen. third reading; Ass. Labor and Industries Com.

To extend the powers of the State Fire Marshal to the investigation of the cause of explosions, inspection of public buildings and steam boilers, and to fix standards of explosives. Senator T. D. Sullivan, S. 597 (634, 1437, 1507) *and Mr. Cross, A.* 861 (949). *Approved April* 17, *as Chapter* 453.

To increase the powers of the Fire Commissioner in New York City. Senator Griffin, S. 890 (977) *and Mr. McGrath, A.* 1254 (1445, 1745). *Approved April* 18, *as Chapter* 458.

To create a state board of boiler rules to have charge of the inspection of steam boilers. Mr. Willmott, A. 1016 (1125). General Laws Com.

To authorize the Fire Commissioner to inspect steam boilers in buildings in New York City. Mr. Foley, A. 852 (926, 1688). Not accepted by the Mayor.

To prohibit the use of unsanitary materials in the manufacture of mattresses. Mr. Merrill, A. 513 (532). Public Health Com.

Similar bill by Mr. Whitney, A. 615 (640, 1515). General Laws Com. Similar bill by Mr. Hoff, A. 932 (1029). Public Health Com.

To prohibit the repapering or recalcimining of work rooms until the old paper or calcimine has been removed and the rooms cleaned. Senator Ramsperger, 670 (714) and Mr. Wende, A. 1065 (1202). Passed Ass.; Sen. Health Com.

To provide better ventilation, lighting, heating, sanitary conveniences and first aid materials in foundries. Senator Wagner, S. 924 (1026) and Mr. Brooks, A. 302 (304). Passed Sen.; Ass. lost and tabled.

Similar bill by Senator Wagner, S. 1116 (1289) and Mr. A. E. Smith, A. 1520 (1864). Sen. Labor and Industries Com.; Ass. stricken from calendar.

To require exhaust fans in factories where excessive heat, vapors and dust are generated. Senator Wagner, S. 1113 (1286) and Mr. A. E. Smith, A. 1521 (1865). Sen. third reading; Ass. Labor and Industries Com.

Similar bill by Senator Wagner, S. 1214 (1432) and Mr. A. E. Smith, A. 1575 (1944). Sen. passed; vote reconsidered; Ass. Labor and Industries Com.

To require the Commissioner of Labor to brand as "unclean" any article found in any factory in which evidence of contagious disease is found, or which is "foul, unclean, or unsanitary," Senator Wagner S. 1115 (1288) *and Mr. A. E. Smith, A.* 1522 (1866). *Approved April* 15, *as Chapter* 334.

To require adequate washing facilities, and to prohibit eating of meals in workrooms where poisonous substances or injurious fumes are present. Senator Wagner, S. 1112 (1285) *and Mr. A. E. Smith, A.* 1523 (1867). *Approved April* 15, *as Chapter* 336.

To prohibit the manufacture or sale of poisonous phosphorus matches. Mr. Shlivek, A. 717 (761). Codes Com.

To amend the law generally as to laundries so as to secure more sanitary working conditions. Mr. Brooks, A. 651 (689, 1309). Public Health Com.

To exempt hotel laundries which do work for guests only from the provision that laundries are to be regarded as factories. Senator Bayne, S. 862 (908). Passed Sen.; Ass. Labor and Industries Com.

To provide for the licensing of bakeries. Senator Wagner, S. 1164 (1338) and Mr. A. E. Smith, A. 1546 (1903). Sen. tabled; Ass. passed.

To include "hotels, catering establishments and restaurants" in the definition of the term "bakeries" in the labor law. Mr. Merrill, A. 1500 (1846). Labor and Industries Com.

To provide that the definition of the term "factory" in the labor law shall include "hotels, catering establishments and restaurants." Mr. Merrill, A. 1501 (1847). Labor and Industries Com.

To provide that the definition of the term "factory" in the labor law shall include "all buildings, sheds or other structures used in connection therewith." Senator Burd, S. 409 (426) and Mr. MacGregor, A. 673 (711). Sen. third reading; Ass. Labor and Industries Com.

MINES AND QUARRIES.

To regulate the use of electricity in mines, tunnels, quarries or caissons. Senator Griffin, S. 238 (247). Sen. Labor and Industries Com.

Similar bill by Senator Griffin, S. 35 (35). Labor and Industries Com.

To amend the labor law in regard to mines, tunnels and quarries, and their inspection. Senator Frawley, S. 1047 (1171) and Mr. Phillips, A. 1410 (1659). Sen. Labor and Industries Com.; Ass. Labor and Industries Com.

BUILDING WORK.

To provide for the greater safety of workers in compressed air. Senator Frawley, S. 1193 (1390) *and Mr. Blauvelt, A.* 425 (437, 1795). *Approved April* 8, *as Chapter* 219.

To authorize the Commissioner of Labor, with the approval of the Governor, to establish safety regulations on all construction work done for the state. Senator Bayne, S. 866 (912, 1461). Third reading.

To increase protection of employees in buildings in cities. Senator McManus, S. 921 (1007) and Mr. Boylan, A. 1272 (1474). Sen. passed; Ass. Labor and Industries Com.

RAILWAYS.

To prohibit signalmen, telegraph or telephone operators under 21 years of age, or without one year's apprenticeship as such. Senator Rose, S. 979 (1098) and Mr. Evans, A. 1101 (1252, 1970). Sen. Codes Com.; Ass. Codes Com.

To define the term "competent" as applied to a car driver, conductor, motorman or gripman on a street surface railroad. Senator Allen, S. 719 (767) and Mr. Madden, A. 1054 (1191). Sen. Railroads Com.; Ass. Railroads Com.

To require elevated and subway trains in New York City to be manned with one guard for each exit or entrance. Senator Duhamel, S. 614 (657) and Mr. Ruddick, A. 749 (805). Sen. Railroads Com.; Ass. Railroads Com.

To require engine crews of two men on steam or electric trains of two cars. Mr. Fleck, A. 543 (566). Railroads Com.

To provide full crews for steam railroad trains. Senator Gittins, S. 327 (343) and Mr. Phillips, A. 517 (536). Vetoed by the Governor.

To provide that caboose cars shall be twenty-four feet long and equipped with two four-wheel trucks. Senator Ramsperger, S. 484 (512) and Mr. Hearn, A. 207 (208). Sen. Railroads Com.; Ass. Railroads Com.

To require the ends of street surface cars to be enclosed during four months of the year in Erie county. Mr. Wende, A. 621 (646). Railroads Com.

To exempt locomotive boilers and certain others from inspection by the State Fire Marshal. Senator Ferris, S. 42 (42) and Mr. Allen, A. 6 (6, 1684). Sen. Insurance Com.; Ass. third reading.

WOMAN AND CHILD LABOR.

To provide a maximum working day of 9 hours and a maximum working week of 54 hours for all females and for male minors under 18 employed in factories. Senator McManus, S. 557 (590, 1011) and Mr. Jackson, A. 332 (334, 1461, 1800). Approved April 19, as Chapter 539.

To shorten the maximum working hours of male minors under 18 and females employed in factories. Mr. Greenberg, A. 254 (254). Labor and Industries Com.

To prohibit females from working before 6 A. M. or after 9 P. M. in laundries. Senator Harte, S. 1038 (1162) and Mr. Jackson, A. 1432 (1710). Sen. passed; Ass. Labor and Industries Com.

To prohibit employment of a female in a factory, mercantile establishment, mill or workshop within four weeks after childbirth. Senator Wagner, S. 1117 (1290) and Mr. A. E. Smith, A. 1519 (1863). Approved April 15, as Chapter 331.

To require that seats with backs at an angle of not less than one hundred degrees be provided for females employed in factories or as waitresses. Senator Wagner, S. 1146 (1320) and Mr. A. E. Smith, A. 1538 (1889). Sen. third reading; Ass. passed.

To require seats with backs at an angle of not less than one hundred degrees for females employed in factories and as waitresses, and to require a physical examination of all children before the issuance of employment certificates. Mr. Merrill, A. 1553 (1910). Labor and Industries Com.

To require a physical examination of every child prior to the issuance of an employment certificate. Senator Wagner, S. 1212 (1430) and Mr. A. E. Smith, A. 1577 (1946). Approved April 15, as Chapter 333.

Similar bill by Senator Wagner, S. 1114 (1287) and Mr. A. E. Smith, A. 1518 (1862). Sen. passed; Ass. Labor and Industries Com.

To amend the law relative to the issuance of employment certificates for children. Senator Pollock, S. 1068 (1192, 1468) and Mr. Murray, A. 1340 (1562). Sen. third reading; Ass. Labor and Industries Com.

To require completion of the first six years' work of the public school in order to obtain a child labor certificate. Senator Travis, S. 1020 (1144, 1462) and Mr. Murray, A. 1232 (1406). Sen. Labor and Industries Com.; Ass. Public Education Com.

To permit boys between fourteen and sixteen years of age to distribute newspapers between 4:30 A. M. and 7:00 A. M. Senator Ramsperger, S. 180 (183) and Mr. Rahl, A. 135 (135). Sen. passed; Ass. passed, vote reconsidered.

To remove the restrictions upon the hours of employment of male minors under 18 and of females in canning establishments. Senator Ferris, S. 628 (672) and Mr. Waters, A. 953 (1047). Sen. Labor and Industries Com.; Ass. Labor and Industries Com.

To prohibit the employment of children under 16 in hotels and restaurants. Mr. Merrill, A. 1502 (1848). Labor and Industries Com.

To eliminate the prohibition against the employment of women and males under 18 in factories manufacturing articles of the baser materials or of iridium. Mr. Kennedy, A. 413 (425). Labor and Industries Com.

To reduce from 9 to 8 the number of hours per day, and from 54 to 48 the number of hours per week children may be employed in mercantile establish-

ments. Senator Wainwright, S. 1041 (1165) and Mr. Murray, A. 1233 (1407). Sen. Labor and Industries Com.; Ass. Labor and Industries Com.

To prohibit the sale of liquor by a minor under 18, *whether a member of the liquor dealer's family or not. Senator Harte, S.* 817 (888) *and Mr. M. Smith, A.* 1239 (1413). *Approved April* 11, *as chapter* 264.

HOURS OF WORK.

Hours.

To extend the eight-hour and prevailing rate of wages law to materials furnished for public work, regardless of where the labor upon such materials is performed. Mr. Sullivan, A. 123 (123). Labor and Industries Com.

To require that not less than the prevailing rate of wages shall be stipulated in each contract for public work and rendering the eight-hour and prevailing rate of wages law applicable to work on highways outside the limits of cities and villages. Mr. Sullivan, A. 124 (124). Labor and Industries Com.

To authorize the employment of laborers on municipal asphalt work in New York City in excess of eight hours per day. Mr. Banzhaf, A. 1556 (1913). Cities Com.

To authorize the employment of laborers on the municipal ferries in New York City in excess of eight hours per day. Senator Bayne, S. 543 (574) and Mr. McKee, A. 883 (971). Sen. passed; Ass. Cities Com.

To limit the hours of drug clerks in first and second class cities to eight per day and forty-eight per week. Mr. Merrill, A. 1312 (1526). Health Com.

To regulate the hours and working conditions of grocery clerks. Senator McManus, S. 593 (630) and Mr. Boylan, A. 841 (915). Sen. third reading; Ass. Labor and Industries Com.

Sunday Work.

To prohibit Sunday work unless a full day of rest is allowed within the next succeeding six days. Senator Roosevelt, S. 940 (1052, 1457) and Mr. Jackson, A. 1286 (1488). Sen. reported by Labor and Industries Com.; Ass. Labor and Industries Com.

To legalize Sunday labor by those who observe any other day of the week as a day of rest. Mr. A. J. Levy, A. 261 (261). Codes Com.

To make Sunday labor a misdemeanor. Senator Roosevelt, S. 941 (1053) and Mr. Jackson, A. 1277 (1479). Sen. Codes Com.; Ass. Codes Com.

To prohibit the business of bootblacking after 3 P. M. on Sundays. Mr. Boylan, A. 1144 (1297). Codes Com.

To prohibit vaudeville and moving picture shows on Sunday. Senator Stilwell, S. 497 (525, 1268). Reported by Codes Com.

LEGAL RIGHTS.

Employers' Liability for Accidents.

Concurrent resolution to amend the state constitution to enable the Legislature to provide for workmen's safety, compensation and insurance. Senator Bayne, S. 193 (196, 968; *A.* 1974) *and Mr. Phillips, A.* 118 (118, 1026, 1586). *Passed both Houses. To Secretary of State March* 29.

Similar bill by Mr. Jackson, A. 49 (49). Judiciary Com.

Concurrent resolution to amend the state constitution enabling the Legislature to provide for workmen's safety and compensation. Senator Wainwright, S. 183 (186). Judiciary Com.

Concurrent resolution to enable the Legislature to require employers, or employers and employees jointly, to provide for workmen's compensation. Mr. Phillips, A. 596 (618). Judiciary Com.

To create a state insurance fund for the benefit of injured employees. Senator Bayne, S. 229 (234) and Mr. Sullivan, A. 150 (150, 346). Reported by Sen. Judiciary Com.; Ass. Judiciary Com.

Similar bill by Mr. Merrill, A. 959 (1066). Ways and Means Com.

To provide for employers' liability and workmen's compensation. Senator Wainwright, S. 1104 (1263) and Mr. Phillips, A. 1484 (1780). Sen. third reading; Ass. Labor and Industries Com.

Concurrent resolution to amend the state constitution empowering the Legislature to provide that an employer assumes all risk of injury to his employee, and forbidding the employer to waive liability therefor. Mr. Greenberg, A. 247 (247). Judiciary Com.

To provide for the recovery in negligence actions of fair and just compensation for all injuries instead of for "pecuniary" injuries only as at present. Mr. McGrath, A. 1161 (1331). Codes Com.

To extend the period within which action for compensation for injury must be commenced. Mr. Sullivan, A. 794 (851, 1818). Third reading.

To provide that in negligence actions contributory negligence shall be a defense to be pleaded and proved by defendant. Senator Wainwright, S. 663 (707). Vetoed by the Governor.

To amend the law as to the testimony of witnesses in negligence actions. Senator Gittins, S. 325 (341, 1340) and Mr. Phillips, A. 377 (387). Sen. passed; Ass. Codes Com.

WAGES.

To except officers of railroad corporations from the law requiring semi-monthly payment of compensation. Mr. Weil, A. 1007 (1116). Labor and Industries Com.

To render discretionary instead of mandatory the allowance of costs to working women in actions in the New York City municipal court to recover wages earned. Mr. J. Levy, A. 430 (442). *Approved April* 18, *as Chapter* 468.

To extend the time within which laborers on canals may bring action against sureties for wages earned. Mr. Sweet, A. 1599 (1995). Canals Com.

To amend the law relative to mechanics' liens. Mr. Hoff, A. 113 (113). Codes Com.

To provide that a state supervisor shall have supervision over loans made upon assignment of wages and otherwise. Mr. Brooks, A. 508 (527, 1308, 1585). General Laws Com.

To give the Superintendent of Banks supervision over the business of lending money on assignments of wages and otherwise. Senator Burd, S. 207 (210) and Mr. Coffey, A. 304 (306). Sen. Judiciary Com.; Ass. Judiciary Com.

To create a commission to investigate the laws in relation to loans made upon assignment of wages and otherwise. Senator Burd, S. 206 (209) and Mr. Coffey, A. 210 (211). Sen. Finance Com.; Ass. Ways and Means Com.

Miscellaneous.

To prohibit an employer from coercing an employee to settle any judgment for debt by threat of discharge from employment. Mr. Merrill, A. 359 (369). Codes Com.

GOVERNMENT EMPLOYEES.

To create a commission on pension or relief funds for employees of the state or municipalities. Mr. Brennan, A. 1024 (1162). Ways and Means Com.

To increase the compensation of certain officers and employees of state hospitals. Senator Long, S. 54 (54, 397) *and Mr. Phillips, A.* 208 (209, 355, 542, 1071). *Approved March* 14, *as Chapter* 43.

To abolish twelve-hour shifts, and increase the pay, of firemen in state hospitals. Senator Long, S. 280 (293) and Mr. Thompson, A. 151 (151). Sen. Finance Com.; Ass. Ways and Means Com.

Similar bill by Mr. Thompson, A. 1557 (1914). Sen. third reading; Ass. passed.

To create a retirement fund for employees in state hospitals for the insane. Senator Long, S. 278 (291) *and Mr. Phillips, A.* 209 (210, 543). *Approved March* 22, *as Chapter* 59.

To change the composition of the retirement board of state hospital employees. Mr. Phillips, A. 1585 (1965). *Approved April* 11, *as Chapter* 283.

To increase the compensation of assistant matrons and guards at the state prison for women. Senator Hewitt, S. 302 (315) *and Mr. Grace, A.* 822 (896). *Approved April* 3, *as Chapter* 105.

To increase the compensation of certain officers and employees in state prisons and reformatories. Senator Murtaugh, S. 47 (47) *and Mr. Young, A.* 70 (70). *Approved March* 19, *as chapter* 50.

To create a pension fund for officers and employees of state prisons. Senator McManus, S. 230 (235, 340). Sen. passed; Ass. Ways and Means Com.

To increase wages of laborers in armories in cities with population between 50,000 *and* 300,000. *Senator Ferris, S.* 469 (497) *and Mr. Entwistle, A.* 657 (695). *Approved April* 10, *as Chapter* 242.

To increase the pay of employees in arsenals and armories according to length of service. Mr. Foley, A. 1121 (1245, 1746). Sen. third reading; Ass. passed.

To increase the wages of laborers in the Rochester armory. Mr. Brooks, A. 702 (746). Military Affairs Com.

To provide that eight hours shall constitute a day's work for laborers in armories. Mr. MacGregor, A. 275 (275). Military Affairs Com.

To increase the number of assistant engineers and fix the hours of work in certain armories. Mr. Wende, A. 645 (672). Military Affairs Com.

To increase the wages of canal lock-tenders. Senator Ramsperger, S. 1018 (1142) *and Mr. Sweet, A.* 1450 (1728). *Approved April* 18, *as Chapter* 506.

To provide that the aldermen, subject to approval of the mayor, shall fix the compensation of city laborers in New York City. Mr. McElligott, A. 443 (455). Not accepted by the Mayor.

To amend the law governing the retirement of employees in New York City. Senator Sanner, S. 1002 (1122) and Mr. Weil, A. 1383 (1626). Not accepted by the Mayor.

To decrease from thirty to twenty-five years the length of service required for retirement of employees in New York City. Senator McClelland, S. 1080 (1225) and Mr. McElligott, A. 1447 (1725). Sen. Cities Com.; Ass. Cities Com.

To reduce from thirty to twenty-five years the period of service to entitle certain New York City employees to be retired on pension. Mr. A. J. Levy, A. 1252 (1443). Cities Com.

To provide that a pensioner of New York City may hold office but payment of such pension to be suspended during term of office. Mr. Banzhaf, A. 1133 (1287, 1685). Third reading.

To permit appointing officers in New York City to grant per diem employees leave of absence during disability with pay. Senator Sanner, S. 547 (580) *and Mr. Gillen, A.* 868 (956). *Approved April* 15, *as Chapter* 353.

To permit employees of New York City to have leave of absence without pay, at the discretion of superiors. Senator McManus, S. 538 (569) *and Mr. Boylan, A.* 805 (866, 1140). *Approved April* 10, *as Chapter* 251.

To render mandatory a yearly vacation of two weeks to every employee of New York City. Mr. Brennan, A. 1215 (1389). Cities Com.

To prohibit compulsory holiday work of New York City employees. Mr. Cuvillier, A. 1063 (1200). Cities Com.

To permit appointing officers to make deductions for delinquency or misconduct from the compensation of employees of New York City. Senator T. D. Sullivan, S. 542 (573) *and Mr. Walker, A.* 902 (990, 1695). *Approved April* 16, *as Chapter* 432.

To authorize appointing officers in New York City to suspend, for not more than one month, without pay, any employee pending charges. Senator Newcomb, S. 598 (635, 1014) and Mr. Foley, A. 895 (983). Vetoed by the Governor.

To require individual signing of payroll receipts by employees of New York City. Senator Frawley, S. 276 (286) *and Mr. Ahern, A.* 1268 (1470). *Approved April* 16, *as Chapter* 398.

To require a driver's helper for each cart in regular use in the New York City street cleaning department, and authorizing the appointment of 1,600 such helpers. Mr. Barnes, A. 931 (1028). Cities Com.

To reduce from sixty to fifty-five years the age at which members of the street cleaning department in New York City may be retired on pension. Mr. McGrath, A. 571 (594, 1741). Third reading.

To provide that no member of the street cleaning department may be removed except upon written charges and a hearing. Mr. Boylan, A. 1294 (1496). Cities Com.

To empower all cities in the state to grant ten weeks' pay to every per diem employee injured in the performance of duty. Mr. Gillen, A. 176 (177). Cities Com.

PRISON LABOR.

To provide that inmates of state prisons shall not be employed on holidays, or more than eight hours per day except on public highways, and making other changes. Senator Walters, S. 1200 (1396). Vetoed by the Governor.

To provide for payment of wages to the dependents of prisoners. Mr. Merrill, A. 1299 (1512). Judiciary Com.

INDUSTRIAL EDUCATION.

To provide for the establishment of training schools in agriculture and related subjects. Senator Harte, S. 501 (532). Finance Com.

Similar bill affecting New York City only by Senator Harte, S. 1036 (1160) and Mr. Thompson, A. 1381 (1624). Sen. Finance Com.; Ass. Public Education Com.

REGULATION OF TRADES OR OCCUPATIONS.

To provide for the licensing of barbers. Senator Burd, S. 429 (446) and Mr. Rahl, A. 661 (699). Sen. Public Health Com.; Ass. Public Health Com.

To provide for the licensing of stationary engineers and firemen. Senator Heacock, S. 445 (462), and Mr. Gibeau, A. 997 (1106). Sen. Labor and Industries Com.; Ass. Labor and Industries Com.

To provide for the licensing of engineers and inspection of steam boilers in New York City. Senator Wagner, S. 1120 (1292). Third reading and Cities Com.

To strike out provision for payment of fees to secure license as boat master, pilot or engineer. Senator Ramsperger, S. 920 (1006) and Mr. Sweet, A. 1284 (1486). Vetoed by the Governor.

To provide for the examination of Hell Gate pilots. Mr. McGrath, A. 26 (26). Cities Com.

To provide for the examination of journeymen plumbers. Senator White, S. 202 (205, 967, 1247). Sen. passed; Ass. Cities Com.

To provide for the examination of employing or journeymen plumbers. Mr. Boylan, A. 806 (867, 1755). Third reading.

To increase from eighteen to twenty-one the minimum age of chauffeurs. Mr. Herrick, A. 1446 (1724). Internal Affairs Com.

To require recommendation of the police department in order to secure a chauffeur's license in a city of the first class. Mr. Greenberg, A. 1240 (1414). Internal Affairs Com.

To prohibit the issuance of a chauffeur's license to any person who has been convicted of felony. Senator Bussey, S. 648 (690). Internal Affairs Com.

INDUSTRIAL DISPUTES.

To create a court of arbitration for the determination of industrial disputes. Senator Griffin, S. 1206 (1424). Codes Com.

To legalize boycotts. Mr. Sullivan, A. 125 (125). Codes Com.

To require employers advertising for laborers to take place of strikers to state that strike exists. Mr. Merrill, A. 81 (81). General Laws Com.

To amend the Anti-Pinkerton law. Senator T. D. Sullivan, S. 191 (194, 1199). Sen. passed; Ass. Codes Com.

UNEMPLOYMENT.

To provide that, in case of revocation of license of an employment agency, another license may be granted after three years from such revocation. Mr. Kopp, A. 114 (114, 1025). *Approved April* 11, *as Chapter* 261.

To create in the Department of Labor a bureau of public employment offices. Senator Bayne, S. 939 (1051). Third reading.

IMMIGRANT LABOR.

To make the furnishing of a bond by immigrant lodging houses discretionary with the Commissioner of Labor, instead of compulsory. Senator McManus, S. 335 (351) *and Mr. Foley, A.* 473 (485). *Approved April* 15, *as Chapter* 337.

To repeal provision authorizing the police board to license immigrant booking agencies in New York City. Senator Foley, S. 1084 (1229). *Approved April* 16, *as Chapter* 429.

To amend the law as to surety bonds of ticket agents. Senator T. D. Sullivan, S. 1210 (1428). Sen. passed; Ass. Judiciary Com.

To repeal provision making it a misdemeanor to charge immigrant passengers more than one and one-fourth cents per mile for transportation, and making other changes. Senator Foley, S. 1083 (1228). Vetoed by the Governor.

To make it a misdemeanor to solicit the surrender of immigrant transportation tickets. Senator Stilwell, S. 818 (889, 1328). Codes Com.

To amend the law as to deposits with express and steamship companies. Senator T. D. Sullivan, S. 814 (885, 1215). Sen. lost; Ass. passed.

To amend the law as to private bankers. Senator T. D. Sullivan, S. 807 (897, 1217). Sen. passed; Ass. Banks Com.

To amend the law as to licenses of private bankers. Mr. Goodman, A. 999 (1108). Banks Com.

MISCELLANEOUS.

To extend the time of the commission appointed to inquire into the prices, etc., of food products. Senator O'Brien, S. 1211 (1429). *Approved April* 4, *as Chapter* 177.

To provide for old age pensions. Senator Duhamel, S. 8 (8) and Mr. Fleck, A. 328 (330). Sen. Finance Com.; Ass. Ways and Means Com.

To create a commission to investigate the subject of old age pensions for dependent wage earners. Mr. Greenberg, A. 252 (252). Ways and Means Com.

APPENDIX VII.

LAWS RELATING TO LABOR IN FORCE JANUARY 1, 1913.

Compiled by the Bureau of Labor Statistics.

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NOTE.—The following compilation presents the several laws as they appear in the Consolidated Laws enacted in 1909 and 1910, or as since amended, in which case references to all amending acts are given. For references to the sources, both original acts and amendments, of the various provisions as enacted in the Consolidated Laws, see the similar compilation in the Annual Report of the Commissioner of Labor for 1909 (Appendix VI).

THE LABOR LAW.

CHAPTER 36 OF THE LAWS OF 1909, IN FORCE FEBRUARY 17, 1909. COMPILED WITH AMENDMENTS TO JANUARY 1, 1913.

AN ACT relating to labor, constituting chapter thirty-one of the consolidated laws.

CHAPTER 31 OF THE CONSOLIDATED LAWS.

LABOR LAW.

Article 1. Short title; definitions (§§ 1, 2).
2. General provisions (§§ 3–21).
3. Department of labor (§§ 40–48).
4. Bureau of labor statistics (§§ 55–58).
5. Bureau of factory inspection (§§ 60–68).
6. Factories (§§ 70–96).
7. Tenement-made articles (§§ 100–105).
8. Bakeries and confectioneries (§§ 110–115).
9. Mines, tunnels and quarries and their inspection (§§ 120–136).
10. Bureau of mediation and arbitration (§§ 140–148).
10-a. Bureau of industries and immigration (§§ 151–156).
11. Employment of women and children in mercantile establishments (§§ 160–173).
12. Bureau of mercantile inspection (§§ 180–184).
13. Convict-made goods and duties of commissioner of labor relative thereto (§§ 190–195).
14. Employer's liability (§§ 200–212).
14-a. Workmen's compensation in certain dangerous employments (§§ 215–219-g). *[Unconstitutional.]*
15. Employment of children in street trades (§§ 220–226).
16. Laws repealed; when to take effect (§§ 240, 241).

ARTICLE 1.

Short Title; Definitions.

Section 1. Short title.
2. Definitions.

§ 1. **Short title.**— This chapter shall be known as the "Labor Law."

§ 2. **Definitions.**— Employee. The term "employee," when used in this chapter, means a mechanic, workingman or laborer who works for another for hire.

Employer. The term "employer," when used in this chapter, means the person employing any such mechanic, workingman or laborer, whether the owner, proprietor, agent, superintendent, foreman or other subordinate.

Factory. The term "factory," when used in this chapter, shall be construed to include also any mill, workshop, or other manufacturing or business establishment where one or more persons are employed at labor.

Mercantile Establishment. The term "mercantile establishment," when used in this chapter, means any place where goods, wares or merchandise are offered for sale.

Tenement House. The term "tenement house," when used in this chapter, means any house or building, or portion thereof, which is rented, leased, let or hired out, to be occupied, or is occupied as the home or residence of three families or more living independently of each other, and doing their cooking upon the premises, and having a common right in the halls, stairways, yards, water-closets or privies, or some of them, and for the purposes of this chapter shall be construed to include any building on the same lot with any dwelling house and which is used for any of the purposes specified in section one hundred of this chapter.

Whenever, in this chapter, authority is conferred upon the commissioner of labor, it shall also be deemed to include his deputies or a deputy acting under his direction.

"Tenant factory" is defined in § 94, *post.* The definition of "tenement house" here differs slightly from that in the Tenement House Law, ch. 61 of the Consolidated Laws, § 2.

A commercial ice house using machinery, etc., is a "factory:" Rabe v. Consol. Ice Co., 151 U. S. C. C. A. 535 (1902). Bakeries and confectioneries are "factories:" see § 111, *post;* also laundries, § 92, *post.*

A tugboat is not a "business establishment" within the meaning of the definition of a factory: Shannahan v. Empire Engineering Corporation, 204 N. Y. 543.

ARTICLE 2.

General Provisions.

Section 3. Hours to constitute a day's work.
4. Violations of the labor law.
5. Hours of labor in brickyards.
6. Hours of labor on street surface and elevated railroads.
7. Regulation of hours of labor on steam surface and elevated railroads.
8. Regulation of hours of labor of block system telegraph and telephone operators and signalmen on surface, subway and elevated railroads.
9. Payment of wages by receivers.
10. Cash payment of wages.
11. When wages are to be paid.
12. Penalty for violation of preceding section.
13. Assignment of future wages.
14. Preference in employment of persons upon public works.
15. Labels, brands and marks used by labor organizations.
16. Illegal use of labels, brands and marks, a misdemeanor; injunction proceedings.
17. Seats for female employees.
18. Scaffolding for use of employees.
19. Inspection of scaffolding, ropes, blocks, pulleys and tackles in cities.
20. Protection of persons employed on buildings in cities.
20-a. Accidents to be reported.
21. Commissioner of labor to enforce provisions of article.

§ 3. Hours to constitute a day's work.— Eight hours shall constitute a legal day's work for all classes of employees in this state except those engaged in farm and domestic service unless otherwise provided by law. This section does not prevent an agreement for overwork at an increased compensation except upon work by or for the state or a municipal corporation, or by contractors or subcontractors therewith. Each contract to which the state or a municipal corporation or a commission appointed pursuant to law is a party which may involve the employment of laborers, workmen or mechanics shall contain a stipulation that no laborer, workman or mechanic in the employ of the contractor, subcontractor or other person doing or contracting to do the whole or a part of the work contemplated by the contract shall

be permitted or required to work more than eight hours in any one calendar day except in cases of extraordinary emergency caused by fire, flood or danger to life or property. The wages to be paid for a legal day's work as hereinbefore defined to all classes of such laborers, workmen or mechanics upon all such public works, or upon any material to be used upon or in connection therewith, shall not be less than the prevailing rate for a day's work in the same trade or occupation in the locality within the state where such public work on, about or in connection with which such labor is performed in its final or completed form is to be situated, erected or used. Each such contract hereafter made shall contain a stipulation that each such laborer, workman or mechanic, employed by such contractor, subcontractor or other person on, about or upon such public work, shall receive such wages herein provided for. Each contract for such public work hereafter made shall contain a provision that the same shall be void and of no effect unless the person or corporation making or performing the same shall comply with the provisions of this section; and no such person or corporation shall be entitled to receive any sum nor shall any officer, agent or employee of the state or of a municipal *corportion pay the same or authorize its payment from the funds under his charge or control to any such person or corporation for work done upon any contract, which in its form or manner of performance violates the provisions of this section, but nothing in this section shall be construed to apply to persons regularly employed in state institutions, or to engineers, electricians and elevator men in the department of public buildings during the annual session of the legislature, nor to the construction, maintenance and repair of highways outside the limits of cities and villages. [*As am'd by L.* 1909, *ch.* 292.]

The Legislature is expressly empowered to regulate conditions of employment on public work by the State Constitution, Article XII, § 1 (given under PUBLIC WORKS AND CONTRACTS, *post*).

The constitutionality of the section was sustained in 1904, so far as it relates to the *direct* employees of the state or of a municipality: Ryan v. City of New York, 177 N. Y. 271. The section is constitutional under both State and Federal constitutions: People ex rel. Williams Engineering and Contracting Co. v. Metz, 193 N. Y. 148 (1908). The United States Supreme Court has affirmed the constitutionality of a similar statute of Kansas (Atkins v. Kansas, 191 U. S. 207), and the eight-hour law of the United States (Ellis v. U. S., 27 Sup. Ct. Rep. p. 600, 1907).

The section applies only to *public work* and not to "articles of common merchandise," or to "marketable commodities," like gas and electricity: Downey v. Bender, 57 App. Div. 310 (1901); see also the Attorney-General's opinion of June 26, 1906 (Report of Commissioner of Labor, 1906, Appendix V). The section does not apply to the manufacture of materials purchased by a contractor for public work: Bohnen v. Metz, 126 App. Div. 807, affirmed, 193 N. Y. 676. But an opinion of the Attorney-General (1909) holds that the section does apply to work such as the manufacture of a fire escape done by a contractor in his own factory (Report of the Commissioner of Labor, 1909, p. 307.)

An armory is a state "institution" and therefore exempt from the provisions of the section: Matter of Burns v. Fox, 98 App. Div. 507 (Nov. 1904). Firemen are not "employees" within the meaning of the statute, which relates only to *mechanics* or *laborers* working for hire: Sweeney v. Sturgis, 78 App. Div. 460, affirmed (May, 1903) 175 N. Y. 8. The wages clause does not apply to school janitors: Farrell v. Board of Education, 113 App. Div. 405.

"Extraordinary emergency" is defined in United States v. Sheridan Kirk Contract Co., U. S. Dist. Court, 149 Fed. Rep. 813; Penn Bridge Co. v. United

* So in original.

States, Court of Appeals of D. C., 35 Wash. Law Reporter, 287. As to what constitutes overtime in case of emergency work on part of employees of municipal department of water supply, see Grady v. City of New York, 182 N. Y. 18 (May 30, 1905). The commissioner of labor is not empowered to issue permits for emergency work (opinion of Attorney-General, June 8, 1911.)

The prevailing-rate-of-wages clause does not apply to work done out of the state for a New York contractor: Ewen v. Thompson-Starrett Co., 71 Misc. 171.

A city employee may waive his right to the prevailing rate of wages: Ryan v. City of New York, 177 N. Y. 271; Byrnes v. City of New York, 150 App. Div 338.

§ 4. **Violations of the labor law.**— Any officer, agent or employee of this state or of a municipal corporation therein having a duty to act in the premises who violates, evades or knowingly permits the violation or evasion of any of the provisions of this chapter shall be guilty of malfeasance in office and shall be suspended or removed by the authority having power to appoint or remove such officer, agent or employee; otherwise by the governor. Any citizen of this state may maintain proceedings for the suspension or removal of such officer, agent or employee or may maintain an action for the purpose of securing the cancellation or avoidance of any contract which by its terms or manner of performance violates this chapter or for the purpose of preventing any officer, agent or employee of such municipal corporation from paying or authorizing the payment of any public money for work done thereupon.

See notes to § 3; also § 21, *post;* and Penal Law, § 1271, subd. 1, under PENALTIES FOR VIOLATION OF THE LABOR LAW, *post.*

§ 5. **Hours of labor in brickyards.**— Ten hours, exclusive of the necessary time for meals, shall constitute a legal day's work in the making of brick in brickyards owned or operated by corporations. No corporation owning or operating such brickyard shall require employees to work more than ten hours in any one day, or to commence work before seven o'clock in the morning. But overwork and work prior to seven o'clock in the morning for extra compensation may be performed by agreement between employer and employee.

Violation a misdemeanor: Penal Law, § 1271, subd. 3.

§ 6. **Hours of labor on street surface and elevated railroads.**— Ten consecutive hours' labor, including one-half hour for dinner, shall constitute a day's labor in the operation of all street surface and elevated railroads, of whatever motive power, owned or operated by corporations in this state, whose main line of travel or whose routes lie principally within the corporate limits of cities of the first and second class. No employee of any such corporation shall be permitted or allowed to work more than ten consecutive hours, including one-half hour for dinner, in any one day of twenty-four hours.

In cases of accident or unavoidable delay, extra labor may be performed for extra compensation.

Violation a misdemeanor: Penal Law, § 1271, subd. 2. Under former law, violation was not a crime: People v. Phyfe, 10 Crim. 246.

§ 7. **Regulation of hours of labor on steam surface and elevated railroads.**— Ten hours' labor, performed within twelve consecutive hours, shall constitute a legal day's labor in the operation of steam surface and elevated railroads owned and operated within this state, except where the mileage system of running trains is in operation. But this section does not apply to the performance of extra hours of labor by conductors, engineers, firemen and trainmen in case of accident or delay resulting therefrom. For each hour of

labor performed in any one day in excess of such ten hours, by any such employee, he shall be paid in addition at least one-tenth of his daily compensation.

No person or corporation operating a line of railroad of thirty miles in length or over, in whole or in part within this state, shall permit or require a conductor, engineer, fireman or trainman, who has worked in any capacity for twenty-four consecutive hours, to go again on duty or perform any kind of work, until he has had at least eight hours' rest.

Violation a misdemeanor (Penal Law, § 1271, subd. 4); also evidence of negligence in action for personal injuries sustained by employee, Pelin v. N. Y. C. & H. R. R. R. Co., 102 App. Div. 71 (1905).

§ 8. **Regulation of hours of labor of block system telegraph and telephone operators and signalmen on surface, subway and elevated railroads.**— The provisions of section seven of this chapter shall not be applicable to employees mentioned herein. It shall be unlawful for any corporation or receiver, operating a line of railroad, either surface, subway or elevated, in whole or in part in the state of New York, or any officer, agent or representative of such corporation or receiver to require or permit any telegraph or telephone operator who spaces trains by the use of the telegraph or telephone under what is known and termed the "block system" (defined as follows): Reporting trains to another office or offices or to a train dispatcher operating one or more trains under signals, and telegraph or telephone levermen who manipulate interlocking machines in railroad yards or on main tracks out on the lines or train dispatchers in its service whose duties substantially, as hereinbefore set forth, pertain to the movement of cars, engines or trains on its railroad by the use of the telegraph or telephone in dispatching or reporting trains or receiving or transmitting train orders as interpreted in this section, to be on duty for more than eight hours in a day of twenty-four hours, and it is hereby declared that eight hours shall constitute a day of employment for all laborers or employees engaged in the kind of labor aforesaid; except in cases of extraordinary emergency caused by accident, fire, flood or danger to life or property, and for each hour of labor so performed in any one day in excess of such eight hours, by any such employee, he shall be paid in addition at least one-eighth of his daily compensation. Any person or persons, company or corporation, who shall violate any of the provisions of this section, shall, on conviction, be fined in the sum of not less than one hundred dollars, and such fine shall be recovered by an action in the name of the state of New York, for the use of the state, which shall sue for it against such person, corporation or association violating this section, said suit to be instituted in any court in this state having appropriate jurisdiction. Such fine, when recovered as aforesaid, shall be paid without any deduction whatever, one-half thereof to the informer, and the balance thereof to be paid into the free school fund of the state of New York. The provisions of this section shall not apply to any part of a railroad where not more than eight regular passenger trains in twenty-four hours pass each way; provided, moreover, that where twenty freight trains pass each way generally in each twenty-four hours then the provisions of this section shall apply, notwithstanding that there may pass a less number of passenger trains than hereinbefore set forth, namely eight.

The section is constitutional as a proper exercise of the police power and does not conflict with the U. S. law on the same subject: New York v. Erie R. R. Co., 198 N. Y. 369.

§ 9. Payment of wages by receivers.— Upon the appointment of a receiver of a partnership or of a corporation organized under the laws of this state and doing business therein, other than a moneyed corporation, the wages of the employees of such partnership or corporation shall be preferred to every other debt or claim.

See also Debtor and Creditor Law, ch. 12 of the Consolidated Laws, §§ 27, 28, and Lien Law, § 13.

Term "employees" includes operatives and laborers (Palmer v. Van Santvoord, 153 N. Y. 612), traveling salesmen (Matter of Fitzgerald, 21 Misc. 226), bookkeepers employed at salary of $100 a month (People v. Beveridge Brewing Co., 91 Hun 313, and Matter of Luxton & Black Co., 35 App. Div. 243), etc.

Term "wages" does not cover amounts credited to employees under a system of profit sharing (Dolge v. Dolge, 70 App. Div. 517).

§ 10. Cash payment of wages.— Every manufacturing, mining, quarrying, mercantile, railroad, street railway, canal, steamboat, telegraph and telephone company, every express company, every corporation engaged in harvesting and storing ice, and every water company, not municipal, and every person, firm or corporation, engaged in or upon any public work for the state or municipal corporation thereof, either as a contractor or a subcontractor therewith, shall pay to each employee engaged in his, their or its business the wages earned by such employee in cash. No such company, person, firm or corporation shall hereafter pay such employees in scrip, commonly known as store money-orders. No person, firm or corporation engaged in carrying on public work under contract with the state or with any municipal corporation of the state, either as a contractor or subcontractor therewith, shall, directly or indirectly, conduct or carry on what is commonly known as a company store, if there shall, at the time, be any store selling supplies within two miles of the place where such contract is being executed. Any person, firm or corporation violating the provisions of this section shall be guilty of a misdemeanor.

Penalty: See § 12, *post*, and Penal Law, § 1272, *post*.

On subject of constitutionality, see Knoxville Iron Co. v. Harbison, 183 U. S. 13, in which the United States Supreme Court sustained the Tennessee anti-truck law.

Payment by check is not a compliance with the section. (Opinion of Attorney-General in his report for 1899, p. 335).

§ 11. When wages are to be paid.— Every corporation or joint-stock association, or person carrying on the business thereof by lease or otherwise, shall pay weekly to each employee the wages earned by him to a day not more than six days prior to the date of such payment.

But every person or corporation operating a steam surface railroad shall, on or before the first day of each month, pay the employees thereof the wages earned by them during the first half of the preceding month ending with the fifteenth day thereof, and on or before the fifteenth day of each month pay the employees thereof the wages earned by them during the last half of the preceding calendar month.

Penalty: See § 12, *post*, and Penal Law, § 1272.

The semi-monthly pay law in the second paragraph of this section is constitutional as within the reserved power of the state to amend corporate charters: N. Y. C. R. R. Co. v. Williams, 199 N. Y. 108.

Any corporation operating a steam surface railroad and also engaged in mining or any other business than the operation of such surface railroad must pay its employees not engaged in operating such road in accordance with the general provisions of this section. (Opinion of Attorney-General, June 4, 1906.) Does not apply to a municipal corporation. (People ex rel. Van Valkenburg v. Myers, 33 N. Y. St. Rep. 18; People v. City of Buffalo, 57 Hun 577.)

§ 12. **Penalty for violation of preceding section.**— If a corporation or joint-stock association, its lessee or other person carrying on the business thereof, shall fail to pay the wages of all its employees as provided in this article, it shall forfeit to the people of the state the sum of fifty dollars for each such failure, to be recovered by the commissioner of labor in his name of office in a civil action. [*As am'd by L.* 1909, *ch.* 206.]

Violation also a misdemeanor: Penal Law, § 1272.

§ 13. **Assignment of future wages.**—No assignment of future wages, payable weekly, or monthly in case of a steam surface railroad corporation, shall be valid if made to the corporation or association from which such wages are to become due, or to any person on its behalf, or if made or procured to be made to any person for the purpose of relieving such corporation or association from the obligation to pay weekly, or monthly in case of a steam surface railroad corporation. Charges for groceries, provisions or clothing shall not be a valid off-set for wages in behalf of any such corporation or association. No such corporation or association shall require any agreement from any employee to accept wages at other periods than as provided in this article as a condition of employment.

See Personal Property Law, § 42, under "Assignment of wages" under POLITICAL AND LEGAL RIGHTS, ETC., *post.*

§ 14. **Preference in employment of persons upon public works.**— In the construction of public works by the state or a municipality, or by persons contracting with the state or such municipality, only citizens of the United States shall be employed; and in all cases where laborers are employed on any such public works, preference shall be given citizens of the state of New York. In each contract for the construction of public works a provision shall be inserted, to the effect that, if the provisions of this section are not complied with, the contract shall be void. All boards, officers, agents or employees of cities of the first class of the state, having the power to enter into contracts which provide for the expenditure of public money on public works, shall file in the office of the commissioner of labor the names and addresses of all contractors holding contracts with said cities of the state. Upon the letting of new contracts the names and addresses of such new contractors shall likewise be filed. Upon the demand of the commissioner of labor a contractor shall furnish a list of the names and addresses of all subcontractors in his employ. Each contractor performing work for any city of the first class shall keep a list of his employees, in which it shall be set forth whether they are naturalized or native born citizens of the United States, together with, in case of naturalization, the date of naturalization and the name of the court where such naturalization was granted. Such lists and records shall be open to the inspection of the commissioner of labor. A violation of this section shall constitute a misdemeanor and shall be punishable by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment for not less than thirty nor more than ninety days, or by both such fine and imprisonment.

The statute of 1894 making it a crime for a contractor with a municipal corporation for the construction of public works, to employ alien laborers thereon, was held in 1895 to be an unconstitutional invasion of personal rights and also a violation of a treaty of the United States with Italy: People v. Warren, 13 Misc. 615. The present law has recently (1911) been held constitutional in the County Court

of Orleans Co. in People v. Ludington's Sons (74 Misc. 373). See also opinion of Attorney-General in Report of the Commissioner of Labor, 1911, p. 368.

As to the preference clause, see City of Chicago v. Hurlbut, 68 N. E. 786 (1903); but Massachusetts enacted a law giving preference to resident labor in 1904 (ch. 311).

§ 15. **Labels, brands and marks used by labor organizations.**— A union or association of employees may adopt a device in the form of a label, brand, mark, name or other character for the purpose of designating the products of the labor of the members thereof. Duplicate copies of such device shall be filed in the office of the secretary of state, who shall, under his hand and seal, deliver to the union or association filing or registering the same a certified copy and a certificate of the filing thereof, for which he shall be entitled to a fee of one dollar. Such certificate shall not be assignable by the union or association to whom it is issued.

This act is constitutional and the infringement of a registered label will be restrained by injunction: Perkins v. Heert, 158 N. Y. 306.

§ 16. **Illegal use of labels, brands and marks a misdemeanor; injunction proceedings.**— A person who (1) shall in any way use or display the label, brand, mark, name or other character, adopted by any such union or association as provided in the preceding section, without the consent or authority of such union or association; or (2) shall counterfeit or imitate any such label, brand, mark, name or other character, or knowingly sells or disposes of, or keeps or has in his possession with intent to sell or dispose of, any goods, wares, merchandise or other products of labor, upon which any such counterfeit or imitation is attached, affixed, printed, stamped or impressed, or knowingly sells or disposes of, or keeps or has in his possession with intent to sell or dispose of any goods, wares, merchandise or other products of labor contained in any box, case, can or package, to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed, is guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment for not less than three months nor more than one year, or by both such fine and imprisonment. After filing copies of such device, such union or association may also maintain an action to enjoin the manufacture, use, display or sale of counterfeit or colorable imitations of such device, or of goods bearing the same, or the unauthorized use or display of such device, or of goods bearing the same, and the court may restrain such wrongful manufacture, use, display or sale, and every unauthorized use or display by others of the genuine devices so registered and filed, if such use or display is not authorized by the owner thereof, and may award to the plaintiff such damages resulting from such wrongful manufacture, use, display or sale as may be proved, together with the profits derived therefrom.

Knowledge or intent is not an ingredient of an offense of counterfeiting a registered label: Bulena v. Newman, 10 Misc. 460. A colorable imitation of a union label, even though it have distinguishing words or names, contravenes this section: Myrup v. Friedman, 58 Misc. 323.

§ 17. **Seats for female employees.**— Every person employing females in a factory or as waitresses in a hotel or restaurant shall provide and maintain suitable seats for the use of such female employees, and permit the use thereof by such employees to such an extent as may be reasonable for the preservation of their health.

Cf. § 170, *post.*

Violation is a misdemeanor: Penal Law, § 1273, *post.*

§ 18. **Scaffolding for use of employees.**— A person employing or directing another to perform labor of any kind in the erection, repairing, altering or painting of a house, building or structure shall not furnish or erect, or cause to be furnished or erected for the performance of such labor, scaffolding, hoists, stays, ladders or other mechanical contrivances which are unsafe, unsuitable or improper, and which are not so constructed, placed and operated as to give proper protection to the life and limb of a person so employed or engaged.

Scaffolding or staging swung or suspended from an overhead support, or erected with stationary supports, more than twenty feet from the ground or floor, except scaffolding wholly within the interior of a building and which covers the entire floor space of any room therein, shall have a safety rail of suitable material, properly bolted, secured and braced, rising at least thirty-four inches above the floor or main portions of such scaffolding or staging and extending along the entire length of the outside and the ends thereof, with such openings as may be necessary for the delivery of materials, and properly attached thereto, and such scaffolding or staging shall be so fastened as to prevent the same from swaying from the building or structure. [*As am'd by L.* 1911, *ch.* 693.]

Violation is a misdemeanor (Penal Law, § 1276, *post*), and renders master liable in case of injury to employees (§ 202, *post*).

The question of what constitutes a structure or a scaffold under this section is one to be decided according to the circumstances of each case and has led to numerous decisions. As to the general principles upon which these questions must be determined see Caddy v. Interborough Rapid Transit Co., 195 N. Y. 415 (1909).

§ 19. **Inspection of scaffolding, ropes, blocks, pulleys and tackles in cities.**— Whenever complaint is made to the commissioner of labor that the scaffolding or the slings, hangers, blocks, pulleys, stays, braces, ladders, irons, or ropes of any swinging or stationary scaffolding used in the construction, alteration, repairing, painting, cleaning or pointing of buildings within the limits of a city are unsafe or liable to prove dangerous to the life or limb of any person, such commissioner of labor shall immediately cause an inspection to be made of such scaffolding, or the slings, hangers, blocks, pulleys, stays, braces, ladders, irons or other parts connected therewith. If, after examination, such scaffolding or any of such parts is found to be dangerous to life or limb, the commissioner of labor shall prohibit the use thereof, and require the same to be altered and reconstructed so as to avoid such danger. The commissioner of labor or deputy factory inspector making the examination shall attach a certificate to the scaffolding, or the slings, hangers, irons, ropes, or other parts thereof, examined by him, stating that he has made such examination, and that he has found it safe or unsafe, as the case may be. If he declares it unsafe, he shall at once, in writing, notify the person responsible for its erection of the fact, and warn him against the use thereof. Such notice may be served personally upon the person responsible for its erection, or by conspicuously affixing it to the scaffolding, or the part thereof declared to be unsafe. After such notice has been so served or affixed, the person responsible therefor shall immediately remove such scaffolding or part thereof and alter or strengthen it in such manner as to render it safe, in the discretion of the officer who has examined it, or of his superiors. The com-

missioner of labor and any of his deputies whose duty it is to examine or test any scaffolding or part thereof, as required by this section, shall have free access, at all reasonable hours, to any building or premises containing them or where they may be in use. All swinging and stationary scaffolding shall be so constructed as to bear four times the maximum weight required to be dependent therefrom or placed thereon, when in use, and not more than four men shall be allowed on any swinging scaffolding at one time.

Violation is a misdemeanor (Penal Law, § 1276, *post*) and renders master liable in case of injury to employees (§ 202, *post*).

§ 20. **Protection of persons employed on buildings in cities.**— All contractors and owners, when constructing buildings in cities, where the plans and specifications require the floors to be arched between the beams thereof, or where the floors or filling in between the floors are of fire-proof material or brick-work, shall complete the flooring or filling in as the building progresses to not less than within three tiers of beams below that on which the iron work is being erected. If the plans and specifications of such buildings do not require filling in between the beams of floors with brick or fire-proof material all contractors for carpenter work, in the course of construction, shall lay the under-flooring thereof on each story as the building progresses to not less than within two stories below the one to which such building has been erected. Where double floors are not to be used, such contractor shall keep planked over the floor two stories below the story where the work is being performed. If the floor beams are of iron or steel, the contractors for the iron or steel work of buildings in course of construction or the owners of such buildings shall thoroughly plank over the entire tier of iron or steel beams on which the structural iron or steel work is being erected, except such spaces as may be reasonably required for the proper construction of such iron or steel work, and for the raising or lowering of materials to be used in the construction of such building, or such spaces as may be designated by the plans and specifications for stairways and elevator shafts. If elevators, elevating machines or hod-hoisting apparatus are used within a building in the course of construction, for the purpose of lifting materials to be used in such construction, the contractors or owners shall cause the shafts or openings in each floor to be inclosed or fenced in on all sides by a barrier at least eight feet in height, except on two sides which may be used for taking off and putting on materials, and those sides shall be guarded by an adjustable barrier not less than three nor more than four feet from the floor and not less than two feet from the edge of such shaft or opening. If a building in course of construction is five stories or more in height, no lumber or timber needed for such construction shall be hoisted or lifted on the outside of such building. The chief officer, in any city, charged with the enforcement of the building laws of such city and the commissioner of labor are hereby charged with enforcing the provisions of this section and sections eighteen and nineteen, and said chief officer in any city charged with the enforcement of the building laws of such city shall have the same powers for the enforcement of these sections as are vested in the commissioner of labor. [*As am'd by L.* 1911, *ch.* 693.]

Violation is a misdemeanor (Penal Law, § 1277, *post*) and renders master liable in case of injury to employees (§ 202, *post*).

As to relative liability of owner and contractor, see *e. g.* Rooney v. Brogan Construction Co., 194 N. Y. 32 (1909).

§ 20-a. Accidents to be reported.— The person in charge of any building, construction, excavating or engineering work of any description, including the work of repair, alteration, painting or renovating, shall keep a correct record of all deaths, accidents or injuries sustained by any person working thereon, in such form as may be required by the commissioner of labor. Such record shall be open to the inspection of the commissioner of labor and a copy thereof shall be furnished to the said commissioner on demand. Within forty-eight hours after the time of the accident, death or injury, a report thereof shall be made in writing to the commissioner of labor, stating as fully as possible the cause of the death or injury, and the place where the injured person has been sent, with such other or further information relative thereto as may be required by the said commissioner, who may investigate the causes thereof and require such precautions to be taken as will prevent the recurrence of similar happenings. No statement contained in any such report shall be admissible in evidence in any action arising out of the death or accident therein reported. [*Added by L.* 1910, *ch.* 155.]

Compare § 87 (factory accidents) and § 126 (mine and quarry accidents) *post.* The section applies to house wrecking, opinion of Attorney-General of May 17, 1911.

§ 21. Commissioner of labor to enforce provisions of article.— The commissioner of labor shall enforce all the provisions of this article. He shall investigate complaints made to him of violations of such provisions and if he finds that such complaints are well founded he shall issue an order directed to the person or corporation complained of, requiring such person or corporation to comply with such provisions. If such order is disregarded the commissioner of labor shall present to the district attorney of the proper county all the facts ascertained by him in regard to the alleged violation, and all other papers, documents or evidence pertaining thereto, which he may have in his possession. The district attorney to whom such presentation is made shall proceed at once to prosecute the person or corporation for the violations complained of, pursuant to this chapter and the provisions of the penal law. If complaint is made to the commissioner of labor that any person contracting with the state or a municipal corporation for the performance of any public work fails to comply with or evades the provisions of this article respecting the payment of the prevailing rate of wages, the requirements of hours of labor or the employment of citizens of the United States or of the state of New York, the commissioner of labor shall if he finds such complaints to be well founded, present evidence of such non-compliance to the officer, department or board having charge of such work. Such officer, department or board shall thereupon take the proper proceedings to revoke the contract of the person failing to comply with or evading such provisions.

See §§ 3 and 4, *ante*; and Penal Law, § 1271, subd. 1, *post.*

ARTICLE 3.

Department of Labor.

Section 40. Commissioner of labor.
41. Deputy commissioners.
42. Bureaus.
43. Powers.
44. Salaries and expenses.
45. Sub-offices.
46. Reports.
47. Old records.
48. Counsel.

§ 40. **Commissioner of labor.**— There shall continue to be a department of labor the head of which shall be the commissioner of labor, who shall be appointed by the governor by and with the advice and consent of the senate and who shall hold office for a term of four years beginning on the first day of January of the year in which he is appointed. He shall receive an annual salary of five thousand five hundred dollars. He shall appoint all officers, clerks, and other employees in the department of labor. [*As am'd by L.* 1911, *ch.* 729.]

§ 41. **Deputy commissioners.**— The commissioner of labor shall forthwith upon entering upon the duties of his office appoint and may at pleasure remove two deputy commissioners of labor, who shall receive such annual salaries, not to exceed four thousand dollars and three thousand five hundred dollars, respectively, as may be appropriated therefor. The powers hereinafter conferred upon the first and second deputy commissioners shall not include the appointment of officers, clerks or other employees in any of the bureaus of the department of labor. [*As am'd by L.* 1911, *ch.* 729.]

§ 42. **Bureaus.**— The department of labor shall be divided into five bureaus as follows: Factory inspection, labor statistics, mediation and arbitration, industries and immigration, and mercantile inspection. [*As am'd by L.* 1910, *ch.* 514.]

§ 43. **Powers.**— 1. The commissioner of labor, his deputies and their assistants and each special agent, confidential agents, factory inspector, mine inspector, tunnel inspector, chief investigator, special investigators, mercantile inspector, or deputy mercantile inspectors may administer oaths and take affidavits in matters relating to the provisions of this chapter and may also serve process in criminal actions arising thereunder. [*As am'd by L.* 1912, *ch.* 382.]

2. No person shall interfere with, obstruct or hinder by force or otherwise the commissioner of labor, his deputies, their assistants or the special agents, deputy factory inspectors, chief investigator, special investigators, the mercantile inspector, or deputy mercantile inspectors while in the performance of their duties, or refuse to properly answer questions asked by such officers pertaining to the provisions of this chapter, or refuse them admittance to any place where and when labor is being performed which is affected by the provisions of this chapter.

3. All notices, orders and directions of deputies, assistants, special agents, deputy factory inspectors, chief investigator, special investigators, the mer-

cantile inspector, or deputy mercantile inspectors given in accordance with this chapter are subject to the approval of the commissioner of labor. And all acts, notices, orders, permits and directions by any provisions of this chapter directed to be performed or given by the factory inspector, chairman of the board of mediation and arbitration, chief investigator, special investigators, mercantile inspector or other officer of the department of labor may be performed or given by and in the name of the commissioner of labor and by any officer of the department thereunto duly authorized by such commissioner in the name of such commissioner.

4. The commissioner of labor may procure and cause to be used badges for himself and his subordinates in the department of labor while in the performance of their duties. [*As am'd by L.* 1910, *ch.* 514.]

§ 44. **Salaries and expenses.**— All necessary expenses incurred by the commissioner of labor in the discharge of his duties shall be paid by the state treasurer upon the warrant of the comptroller issued upon proper vouchers therefor. The reasonable and necessary traveling and other expenses of the deputy commissioners, their assistants, the special agents and statisticians, the deputy factory inspectors, chief investigator, the special investigators, the mercantile inspectors, deputy mercantile inspectors, and other field officers of the department while engaged in the performance of their duties shall be paid in like manner upon vouchers approved by the commissioner of labor and audited by the comptroller. [*As am'd by L.* 1910, *ch.* 514.]

§ 45. **Sub-offices.**— The commissioner of labor may establish and maintain a sub-office in any city if in his opinion it be necessary. He may designate any one or more of his subordinates to take charge of and manage any such office, subject to his direction. The reasonable and necessary expenses of such office shall be paid as are other expenses of the commissioner of labor. [*As am'd by L.* 1911, *ch.* 729.]

§ 46. **Reports.**— The commissioner of labor shall report annually to the legislature.

§ 47. **Old records.**—All statistics furnished to and all complaints, reports and other documentary matter received by the commissioner of labor pursuant to this chapter or any act repealed or superseded thereby may be destroyed by such commissioner after the expiration of six years from the time of the receipt thereof.

§ 48. **Counsel.**— The commissioner of labor may employ counsel in the department of labor to represent the department or to assist in the prosecution of actions or proceedings brought under the provisions of this chapter. Such counsel shall receive such compensation as may otherwise be provided by law.

§ 49. **Industrial directory.**— The commissioner of labor shall prepare annually an industrial directory for all cities and villages having a population of one thousand or more according to the last preceding federal census or state enumeration. Such directory shall contain information regarding opportunities and advantages for manufacturing in every such city or village, the factories established therein, hours of labor, housing conditions, railroad and water connections, water power, natural resources, wages and such other data regarding social, economic and industrial con-

ditions as in the judgment of the commissioner would be of value to prospective manufacturers, and their employees. If a city is divided into boroughs the directory shall contain such information as to each borough. [*Added by L.* 1911, *ch.* 565.]

ARTICLE 4.

Bureau of Labor Statistics.

Section 55. Bureau of labor statistics.
56. Duties and powers.
57. Statistics to be furnished upon request.
58. Industrial poisonings to be reported.

§ 55. **Bureau of labor statistics.**— There shall continue to be a bureau of labor statistics, which shall be under the immediate charge of a chief statistician, but subject to the direction and supervision of the commissioner of labor.

Cf. § 42, *ante.*

§ 56. **Duties and powers.**— The commissioner of labor shall collect, assort, systematize and present in annual reports to the legislature, statistical details in relation to all departments of labor in the state, especially in relation to the commercial, industrial, social and sanitary condition of workingmen and to the productive industries of the state. He may subpœna witnesses, take and hear testimony, take or cause to be taken depositions and administer oaths.

Subpœna, how issued, Code of Civil Procedure, § 854; how served, id., § 852; fees, id., § 3318.

Duties and powers discussed, People v. Peck, 138 N. Y. 386, which held the Commissioner of Labor Statistics to be a public officer within the meaning of § 2050 of the Penal Law.

§ 57. **Statistics to be furnished upon request.**— The owner, operator, manager or lessee of any mine, factory, workshop, warehouse, elevator, foundry, machine shop or other manufacturing establishment, or any agent, superintendent, subordinate, or employee thereof, and any person employing or directing any labor affected by the provisions of this chapter, shall, when requested by the commissioner of labor, furnish any information in his possession or under his control which the commissioner is authorized to require, and shall admit him to any place where labor is carried on which is affected by the provisions of this chapter for the purpose of inspection. All statistics furnished to the commissioner of labor, pursuant to this article, may be destroyed by such commissioner after the expiration of two years from the time of the receipt thereof. A person refusing to admit such commissioner, or a person authorized by him, to any such establishment, or to furnish him any information requested, or who refuses to answer or untruthfully answers questions put to him by such commissioner, in a circular or otherwise, shall forfeit to the people of the state the sum of one hundred dollars for each refusal or untruthful answer given, to be sued for and recovered by the commissioner in his name of office. The amount so recovered shall be paid in to the state treasury.

§ 58. **Industrial poisonings to be reported.**— 1. Every medical practitioner attending on or called in to visit a patient whom he believes to be suffering

from poisoning from lead, phosphorus, arsenic or mercury or their compounds, or from anthrax, or from compressed air illness, contracted as the result of the nature of the patient's employment, shall send to the commissioner of labor a notice stating the name and full postal address and place of employment of the patient and the disease from which, in the opinion of the medical practitioner, the patient is suffering, with such other and further information as may be required by the said commissioner.

2. If any medical practitioner, when required by this section to send a notice, fails forthwith to send the same, he shall be liable to a fine not exceeding ten dollars.

3. It shall be the duty of the commissioner of labor to enforce the provisions of this section, and he may call upon the state and local boards of health for assistance. [*Added by L.* 1911, *ch.* 258.]

ARTICLE 5.

Bureau of Factory Inspection.

Section 60. Factory inspector.
61. Deputies.
62. General powers and duties.
63. Reports.
67. Duties relative to apprentices.
68. Laws to be posted.

§ 60. **Chief factory inspector.**— There shall continue to be a bureau of factory inspection. The first deputy commissioner of labor shall be the chief factory inspector of the state and in immediate charge of this bureau, but subject to the direction and supervision of the commissioner of labor. [*As am'd by L.* 1911, *ch.* 729.]

§ 61. **Factory inspectors.**— The commissioner of labor may appoint from time to time not more than one hundred and twenty-five persons as factory inspectors, not more than twenty of whom shall be women, and who may be removed by him at any time. The factory inspectors may be divided into five grades, but not more than thirty shall be of the third grade, and not more than eight shall be of the fourth grade and not more than one shall be of the fifth grade. Each inspector of the first grade shall receive an annual salary of one thousand dollars, each of the second grade an annual salary of one thousand two hundred dollars and each of the third grade an annual salary of one thousand five hundred dollars. There shall be after October first, nineteen hundred and eleven, no further appointments in the first grade and no vacancies in the first grade shall be filled. There may be at any time not to exceed ninety persons in the second grade. Each inspector of the fourth grade shall receive an annual salary of two thousand five hundred dollars. Each inspector of the fifth grade shall receive an annual salary of three thousand five hundred dollars. Each inspector of the fifth grade shall be a mechanical engineer. [*As am'd by L.* 1911, *ch.* 729, *and L.* 1912, *ch.* 158.]

§ 62. **General powers and duties.**— 1. The commissioner of labor shall from time to time divide the state into districts, assign one factory inspector of the fourth grade to each district as supervising inspector, and may in his discretion transfer them from one district to another; he may assign any factory inspector to inspect any special class or classes of factories or to enforce any special provisions of this chapter; and he may assign any one

or more of them to act as clerks in any office of the department. [*As am'd by L.* 1911, *ch.* 729.]

2. The commissioner of labor may authorize any deputy commissioner or assistant and any special agent or inspector in the department of labor to act as a deputy factory inspector with the full power and authority thereof.

3. The commissioner of labor, the first deputy commissioner of labor and his assistant or assistants and every factory inspector may in the discharge of his duties enter any place, building or room where and when any labor is being performed which is affected by the provisions of this chapter and may enter any factory whenever he may have reasonable cause to believe that any such labor is being performed therein. [*As am'd by L.* 1911, *ch.* 729.]

4. The commissioner of labor shall visit and inspect or cause to be visited and inspected the factories, during reasonable hours, as often as practicable, and shall cause the provisions of this chapter to be enforced therein.

5. Any lawful municipal ordinance,* by-law or regulation relating to factories, in addition to the provisions of this chapter and not in conflict therewith, may be observed and enforced by the commissioner of labor.

The Commissioner of Labor may also assign duties to the inspectors of steam vessels when transferred by the Superintendent of Public Works in accordance with the Navigation Law (ch. 37 of the Consolidated Laws) as follows:

§ 3. **Duties of superintendent of public works.**— The superintendent of public works shall superintend the administration of the provisions of this article, appoint the inspectors provided for in this act and exercise supervision over them in the performance of their duties so far as the same relate to the administration and enforcement of the provisions of this article. During such periods of the year as in the judgment of the superintendent of public works, the services of the inspectors provided to be appointed by this article shall not be needed in the administration of the provisions of this article, he may, upon request of the commissioner of labor, for temporary periods, transfer such inspectors to the department of labor, and during the periods in which said inspectors are so transferred, they shall be subject to the jurisdiction of the commissioner of labor and subject to detail by him as experts in the administration of the labor law. The necessary traveling expenses of said inspectors while acting under the jurisdiction of the commissioner of labor shall be paid from the funds appropriated for the administration of the department of labor, and their salaries shall be paid, as hereinafter provided, by the superintendent of public works, their vouchers to be approved by the commissioner of labor.

§ 63. **Reports.**— The commissioner of labor shall make an annual report to the legislature of the operation of this bureau.

§ 67. **Duties relative to apprentices.**— The commissioner of labor shall enforce the provisions of the domestic relations law, relative to indenture of apprentices, and prosecute employers for failure to comply with the provisions of such indentures and of such law in relation thereto.

For the law concerning apprentices here referred to see "The Apprentice System" under INDUSTRIAL EDUCATION, *post.*

§ 68. **Laws to be posted.**—A copy or abstract of the provisions of this chapter applicable thereto, to be prepared and furnished by the commissioner of labor, shall be kept posted by the employer in a conspicuous place on each floor of every factory where persons are employed who are affected by the provisions thereof.

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* With the possible exception of New York City ordinances (City of New York v. Trustees of Sailors' Snug Harbor, 85 App. Div. 355, aff'd 180 N. Y. 527, and opinion by Attorney-General, January 16, 1904).

ARTICLE 6.

Factories.

[NOTE.— *The Penal Law,* § 1275 (*post*) *makes it a misdemeanor to violate or refuse to comply with the provisions of this article, which are to be strictly construed.* (*Murphy* v. *Bennett,* 11 *App. Div.* 298.)]

Section 69. Registration of factories.
70. Employment of minors.
71. Employment certificate how issued.
72. Contents of certificate.
73. School record, what to contain.
75. Report of certificates issued.
76. Registry of children employed.
77. Hours of labor of children, minors and women.
78. Exceptions.
79. Enclosure and operation of elevators and hoisting shafts; inspection.
80. Stairs and doors.
81. Protection of employees operating machinery.
82. Fire escapes.
83. Commissioner of labor may order erection of fire escapes.
83-a. Fire drills.
83-b. Automatic sprinklers.
83-c. Fire proof receptacles; gas jets; smoking.
84. Walls and ceilings.
85. Size of rooms.
86. Ventilation.
87. Accidents to be reported.
88. Drinking water, wash-room and water-closets.
89. Time allowed for meals.
89-a. Prohibition against eating meals in certais work rooms.
90. Inspection of factory buildings.
91. Inspection of boilers in factories.
92. Laundries.
93. Prohibited employment of women and children.
93-a. Employment of females after child birth prohibited.
94. Tenant-factories.
95. Unclean tenant-factories.
96. Definition of "custodian."

§ 69. **Registration of factories.**— The owner of every factory shall register such factory with the state department of labor, giving the name of the owner, his home address, the address of the business, the name under which it is carried on, the number of employees and such other data as the commissioner of labor may require. Such registration of existing factories shall be made within six months after this section takes effect. Factories hereafter established shall be so registered within thirty days after the commencement of business. Within thirty days after a change in the location of a factory the owner thereof shall file with the commissioner of labor the new address of the business, together with such other information as the commissioner of labor may require. [*Added by L.* 1912, *ch.* 335.]

§ 70. **Employment of minors.**— No child under the age of fourteen years shall be employed, permitted or suffered to work in or in connection with any factory in this state. No child between the ages of fourteen and sixteen years shall be so employed, permitted or suffered to work unless an employment certificate issued as provided in this article shall have been theretofore filed in the office of the employer at the place of employment of such child.

Compare §§ 626–628 of the Compulsory Education Law under CHILD LABOR, *post,* and § 162 *post.*

The prohibition is absolute; lack of intent or knowledge not a defense (opinion of Attorney-General, January 16, 1905; City of New York v. Chelsea Jute Mills, 43 Misc. 266, where it was held, March 24, 1904, that ignorance of the child's age and an honest belief on the part of the employer that it was over age, was no defense). But an officer of a corporation who has directed that no child shall be employed contrary to law is not liable if a subordinate, without his knowledge, illegally employs a child. People v. Taylor, 192 N. Y. 398 (1908).

Violation is a misdemeanor (Penal Law, § 1275, *post*) and *prima facie* evidence of negligence on the part of an employer in an action against him: Marino v Lehmaier, 173 N. Y. 530; Koester v. Rochester Candy Works, 194 N. Y. 92 (1909); Sitts v. Waiontha Co., 94 App. Div. 38; Dragotto v. Plunkett, 113 App. Div. 648; Lee v. Sterling Silk Mfg. Co., 115 App. Div. 589 and 134 App. Div. 123; Kenyon v. Sanford Mfg. Co., 199 App. Div. 570; Fortune v. Hall, 122 App. Div. 250; Danaher v. American Mfg. Co., 126 App. Div. 385 (1908). *Cf.* also § 202, *post*.

The section does not apply to children employed in fields adjacent to canning factories, nor to sheds unconnected with such factories (opinion of Attorney-General, September 22, 1905).

§ 71. **Employment certificate how issued.**— Such certificate shall be issued by the commissioner of health or the executive officer of the board or department of health of the city, town or village where such child resides, or is to be employed, or by such other officer thereof as may be designated by such board, department or commissioner for that purpose, upon the application of the parent or guardian or custodian of the child desiring such employment. Such officer shall not issue such certificate until he has received, examined, approved and filed the following papers duly executed, viz.: The school record of such child properly filled out and signed as provided in this article; also evidence of age showing that the child is fourteen years old or upwards, which shall consist of the evidence thereof provided in one of the following subdivisions of this section and which shall be required in the order herein designated as follows:

(a) Birth certificate: A duly attested transcript of the birth certificate filed according to law with a registrar of vital statistics or other officer charged with the duty of recording births, which certificate shall be conclusive evidence of the age of such child.

(b) Certificate of graduation: A certificate of graduation duly issued to such child showing that such child is a graduate of a public school of the state of New York or elsewhere, having a course of not less than eight years, or of a school in the state of New York other than a public school, having a substantially equivalent course of study of not less than eight years' duration, in which a record of the attendance of such child has been kept as required by article twenty of the education law, provided that the record of such school shows such child to be at least fourteen years of age.

(c) Passport or baptismal certificate: A passport or a duly attested transcript of a certificate of baptism showing the date of birth and place of baptism of such child.

(d) Other documentary evidence: In case it shall appear to the satisfaction of the officer to whom application is made, as herein provided, for an employment certificate, that a child for whom such certificate is requested, and who has presented the school record, is in fact over fourteen years of age, and that satisfactory documentary evidence of age can be produced, which does not fall within any of the provisions of the preceding subdivisions of this section, and that none of the papers mentioned in said subdivisions can be produced, then and not otherwise he shall present to the board of health of which

he is an officer or agent, for its action thereon, a statement signed by him showing such facts, together with such affidavits or papers as may have been produced before him constituting such evidence of the age of such child, and the board of health, at a regular meeting thereof, may then, by resolution, provide that such evidence of age shall be fully entered on the minutes of such board, and shall be received as sufficient evidence of the age of such child for the purpose of this section.

(e) Physicians' certificates: In cities of the first class only, in case application for the issuance of an employment certificate shall be made to such officer by a child's parent, guardian or custodian who alleges his inability to produce any of the evidence of age specified in the preceding subdivisions of this section, and if the child is apparently at least fourteen years of age, such officer may receive and file an application signed by the parent, guardian or custodian of such child for physicians' certificates. Such application shall contain the alleged age, place and date of birth, and present residence of such child, together with such further facts as may be of assistance in determining the age of such child. Such application shall be filed for not less than ninety days after date of such application for such physicians' certificates, for an examination to be made of the statements contained therein, and in case no facts appear within such period or by such examination tending to discredit or contradict any material statement of such application, then and not otherwise the officer may direct such child to appear thereafter for physical examination before two physicians officially designated by the board of health, and in case such physicians shall certify in writing that they have separately examined such child and that in their opinion such child is at least fourteen years of age such officer shall accept such certificates as sufficient proof of the age of such child for the purposes of this section. In case the opinions of such physicians do not concur, the child shall be examined by a third physician and the concurring opinions shall be conclusive for the purpose of this section as to the age of such child.

Such officer shall require the evidence of age specified in subdivision (a) in preference to that specified in any subsequent subdivision and shall not accept the evidence of age permitted by any subsequent subdivision unless he shall receive and file in addition thereto an affidavit of the parent showing that no evidence of age specified in any preceding subdivision or subdivisions of this section can be produced. Such affidavit shall contain the age, place and date of birth, and present residence of such child, which affidavit must be taken before the officer issuing the employment certificate, who is hereby authorized and required to administer such oath and who shall not demand or receive a fee therefor. Such employment certificate shall not be issued until such child further has personally appeared before and been examined by the officer issuing the certificate, and until such officer shall, after making such examination, sign and file in his office a statement that the child can read and legibly write simple sentences in the English language and that in his opinion the child is fourteen years of age or upwards and has reached the normal development of a child of its age, and is in sound health and is physically able to perform the work which it intends to do. Every such employment certificate shall be signed, in the presence of the officer issuing the same, by the child in whose name it is issued. In every case, before

an employment certificate is issued, such physical fitness shall be determined by a medical officer of the department or board of health, who shall make a thorough physical examination of the child and record the result thereof on a blank to be furnished for the purpose by the state commissioner of labor and shall set forth thereon such facts concerning the physical condition and history of the child as the commissioner of labor may require. [*As am'd by L.* 1912, *ch.* 333.]

Compare § 163, *post.*

An amendment to the Penal Law, § 1275, subd. 8, *post,* makes it a misdemeanor to make a false statement in relation to an application for an employment certificate.

§ 72. **Contents of certificate.**— Such certificate shall state the date and place of birth of the child, and describe the color of the hair and eyes, the height and weight and any distinguishing facial marks of such child, and that the papers required by the preceding section have been duly examined, approved and filed and that the child named in such certificate has appeared before the officer signing the certificate and been examined.

Compare § 164, *post.*

§ 73. **School record, what to contain.**— The school record required by this article shall be signed by the principal or chief executive officer of the school which such child has attended and shall be furnished, on demand, to a child entitled thereto or to the board, department or commissioner of health. It shall contain a statement certifying that the child has regularly attended the public schools or schools equivalent thereto or parochial schools for not less than one hundred and thirty days during the twelve months next preceding his fourteenth birthday, or during the twelve months next preceding his application for such school record and is able to read and write simple sentences in the English language, and has received during such period instruction in reading, spelling, writing, English grammar and geography and is familiar with the fundamental operations of arithmetic up to and including fractions. Such school record shall also give the date of birth and residence of the child as shown on the records of the school and the name of its parent or guardian or custodian.

Compare § 165, *post,* and §§ 629–630 of the Education Law under CHILD LABOR, *post.*

§ 75. **Report of certificates issued.**— The board or department of health or health commissioner of a city, village or town, shall transmit, between the first and tenth day of each month, to the office of the commissioner of labor a list of the names of the children to whom certificates have been issued, together with a duplicate of the record of the physical examination of all such children made as hereinbefore provided. [*As am'd by L.* 1912, *ch.* 333.]

§ 76. **Registry of children employed.**— Each person owning or operating a factory and employing children therein shall keep or cause to be kept in the office of such factory, a register, in which shall be recorded the name, birthplace, age and place of residence of all children so employed under the age of sixteen years. Such register and the certificate filed in such office shall be produced for inspection upon the demand of the commissioner of labor. On termination of the employment of a child so registered, and whose certificate is so filed, such certificate shall be forthwith surrendered by the employer to the child or its parent or guardian or custodian. The commissioner of labor

may make demand on an employer in whose factory a child apparently under the age of sixteen years is employed or permitted or suffered to work, and whose employment certificate is not then filed as required by this article, that such employer shall either furnish him, within ten days, evidence satisfactory to him that such child is in fact over sixteen years of age, or shall cease to employ or permit or suffer such child to work in such factory. The commissioner of labor may require from such employer the same evidence of age of such child as is required on the issuance of an employment certificate; and the employer furnishing such evidence shall not be required to furnish any further evidence of the age of the child. A notice embodying such demand may be served on such employer personally or may be sent by mail addressed to him at said factory, and if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post. When the employer is a corporation such notice may be served either personally upon an officer of such corporation, or by sending it by post addressed to the office or the principal place of business of such corporation. The papers constituting such evidence of age furnished by the employer in response to such demand shall be filed with the commissioner of labor and a material false statement made in any such paper or affidavit by any person shall be a misdemeanor. In case such employer shall fail to produce and deliver to the commissioner of labor within ten days after such demand such evidence of age herein required by him, and shall thereafter continue to employ such child or permit or suffer such child to work in such factory, proof of the giving of such notice and of such failure to produce and file such evidence shall be prima facie evidence in any prosecution brought for a violation of this article that such child is under sixteen years of age and is unlawfully employed.

Compare § 167, *post.*

§ 77. Hours of labor of children, minors and women.— 1. No child under the age of sixteen years shall be employed or permitted to work in or in connection with any factory in this state before eight o'clock in the morning, or after five o'clock in the evening of any day, or for more than eight hours in any one day, or more than six days in any one week.

2. No male minor under the age of eighteen years shall be employed or permitted to work in any factory in this state more than six days or fifty-four hours in any one week, or for more than nine hours in any one day, except as hereinafter provided; nor between the hours of twelve midnight and four o'clock in the morning.

3. No female minor under the age of twenty-one years and no woman shall be employed or permitted to work in any factory in this state before six o'clock in the morning, or after nine o'clock in the evening of any day, or more than six days or fifty-four hours in any one week; nor for more than nine hours in any one day except as hereinafter provided.

4. A printed notice, in a form which shall be furnished by the commissioner of labor, stating the number of hours per day for each day of the week required of such persons, and the time when such work shall begin and end, shall be kept posted in a conspicuous place in each room where they are employed. But such persons may begin their work after the time for beginning and stop before the time for ending such work, mentioned in such notice, but they shall not otherwise be employed, permitted or suffered

to work in such factory except as stated therein. The terms of such notice shall not be changed after the beginning of labor on the first day of the week without the consent of the commissioner of labor. The presence of such persons in the factory at any other hours than those stated in the printed notice, or if no such notice be posted, before seven o'clock in the morning or after six o'clock in the evening, shall constitute prima facie evidence of a violation of this section.

5. In a factory wherein, owing to the nature of the work, it is practically impossible to fix the hours of labor weekly in advance the commissioner of labor, upon a proper application stating facts showing the necessity therefor, shall grant a permit dispensing with the notice hereinbefore required, upon condition that the daily hours of labor be posted for the information of employees and that a time book in a form to be approved by him, giving the names and addresses of all female employees and the hours worked by each of them in each day, shall be properly and correctly kept, and shall be exhibited to him or any of his subordinates promptly upon demand. Such permit shall be kept posted in such place in such factory as such commissioner may prescribe, and may be revoked by such commissioner at any time for failure to post it or the daily hours of labor or to keep or exhibit such time book as herein provided.

6. Where a female or male minor is employed in two or more factories or mercantile establishments in the same day or week the total time of employment must not exceed that allowed per day or week in a single factory or mercantile establishment; and any person who shall require or permit a female to work in a factory between the hours of six o'clock in the evening and seven o'clock in the morning in violation of the provisions of this subdivision of this section, with or without knowledge of the previous or other employment, shall be liable for a violation thereof. [*As am'd by L.* 1912, *ch.* 539.]

Compare §§ 161 and 161-a, *post.*

The limitation of the working hours of women to sixty per week is constitutional: People v. Howe, Court of Special Sessions, Oct., 1906 (Report of Com. of Labor, 1906, p. 119; Department of Labor Bulletin, Dec., 1906, p. 483).

The prohibition of the employment of women over 21 years of age between 9 P. M. and 6 A. M. is unconstitutional: People v. Williams, 189 N. Y. 131 (1907).

§ 78. **Exceptions.**— 1. A female sixteen years of age or upwards and a male between the ages of sixteen and eighteen may be employed in a factory more than nine hours a day: (a) regularly in not to exceed five days a week, in order to make a short day or holiday on one of the six working days of the week; (b) irregularly in not to exceed three days a week; provided that no such person shall be required or permitted to work more than ten hours in any one day or more than fifty-four hours in any one week, and that the provisions of the preceding section as to notice or time book be fully complied with.

2. The provisions of subdivisions two and three of section seventy-seven relating to maximum hours shall not apply to the employment of women and minors sixteen years of age and upwards in canning or preserving perishable products in fruit and canning establishments between the fifteenth day of June and the fifteenth day of October each year.

3. In a prosecution for a violation of any provision of this or of the preceding section the burden of proving a permit or exception shall be upon the party claiming it. [*As am'd by L.* 1912, *ch.* 539.]

§ 79. **Inclosure and operation of elevators and hoisting shafts; inspection.**— If, in the opinion of the commissioner of labor, it is necessary to protect the life or limbs of factory employees, the owner, agent or lessee of such factory where an elevator, hoisting shafts or well hole is used, shall cause, upon written notice from the commissioner of labor, the same to be properly and substantially inclosed, secured or guarded, and shall provide such proper traps or automatic doors so fastened in or at all elevator ways, except passenger elevators inclosed on all sides, as to form a substantial surface when closed and so constructed as to open and close by action of the elevator in its passage either ascending or descending. The commissioner of labor may inspect the cable, gearing or other apparatus of elevators in factories and require them to be kept in a safe condition. [*As am'd by L.* 1909, *ch.* 299.]

Violation is not only a misdemeanor (Penal Law, § 1275, subd. 4, *post*) but renders master liable in case of injury to employees (§ 202, *post*). The owner of a tenant factory cannot by any lease escape responsibility for observance of this section (§ 94, *post; Cf.* also note to section 86, *post*).

§ 80. **Stairs and doors.**— Proper and substantial hand rails shall be provided on all stairways in factories. The steps of such stairs shall be covered with rubber, securely fastened thereon, if in the opinion of the commissioner of labor the safety of employees would be promoted thereby. The stairs shall be properly screened at the sides and bottom. All doors leading in or to any such factory shall be so constructed as to open outwardly where practicable, and shall not be locked, bolted or fastened during working hours. No door, window or other opening on any floor of any such factory shall be obstructed by stationary metal bars, grating or wire mesh. Any metal bars, grating, or wire mesh provided for any such doors, windows or openings, shall be so constructed as to be readily movable or removable from the interior in such a manner as to afford the free and unobstructed use of such doors, windows or opening for purposes of egress, in case of need. [*As am'd by L.* 1910, *ch.* 461.]

Violation both constitutes a misdemeanor (Penal Law, § 1275, *post*) and renders master liable in case of injury to employees (§ 202, *post*). In a tenant factory both owner and occupant are responsible for observance of this section (§ 94, *post; Cf.* also note to § 86, *post*).

By § 351 of the Insurance Law it is made the duty of the State fire marshal to enforce all laws relating to exits from factories outside of New York City. Similar duties in New York City are by section 774 of the charter laid upon the fire commissioner.

§ 81. **Protection of employees operating machinery.**— The owner or person in charge of a factory where machinery is used, shall provide, in the discretion of the commissioner of labor, belt shifters or other mechanical contrivances for the purpose of throwing on or off belts on pulleys. Whenever practicable, all machinery shall be provided with loose pulleys. All vats, pans, saws, planers, cogs, gearing, belting, shafting, set-screws and machinery, of every description shall be properly guarded. No person shall remove or make ineffective any safeguard around or attached to machinery, vats or

pans, while the same are in use, unless for the purpose of immediately making repairs thereto, and all such safeguards so removed shall be promptly replaced. All grinding, polishing or buffing wheels used in the course of the manufacture of articles of the baser metals shall be equipped with proper hoods and pipes and such pipes shall be connected to an exhaust fan of sufficient capacity and power to remove all matter thrown off such wheels in the course of their use. Such fan shall be kept running constantly while such grinding, polishing or buffing wheels are in operation; except that in case of wet grinding it is unnecessary to comply with this provision. All machinery creating dust or impurities shall be equipped with proper hoods and pipes and such pipes shall be connected to an exhaust fan of sufficient capacity and power to remove such dust or impurities; such fan shall be kept running constantly while such machinery is in use; except where, in case of wood-working machinery, the commissioner of labor, after first making and filing in the public records of his office a written statement of the reasons therefor, shall decide that it is unnecessary for the health and welfare of the operatives. If a machine or any part thereof is in a dangerous condition or is not properly guarded, the use thereof may be prohibited by the commissioner of labor and a notice to that effect shall be attached thereto. Such notice shall not be removed until the machine is made safe and the required safeguards are provided, and in the meantime such unsafe or dangerous machinery shall not be used. When in the opinion of the commissioner of labor it is necessary, the work-rooms, halls and stairs leading to the work-rooms shall be properly lighted, and in cities of the first class, if deemed necessary by the commissioner of labor, a proper light shall be kept burning by the owner or lessee in the public hallways near the stairs upon the entrance floor and upon the other floors on every work day in the year, from the time when the building is opened for use in the morning until the time it is closed in the evening, except at times when the influx of natural light shall make artificial light unnecessary. Such lights shall be independent of the motive power of such factory. [*As am'd by L.* 1909, *ch.* 299, *and L.* 1910, *ch.* 106.]

Non-compliance with the section renders the master liable in case of injury to employees (§ 202, *post*).

In a tenant-factory the owner alone is responsible for lighting of halls and stairs (§ 94, *post*).

Where it is practicable to guard a machine and danger from its remaining unguarded should be reasonably anticipated the provisions of the section are mandatory and the burden of proving that it is impracticable to guard a machine is upon the employer: Scott v. International Paper Co., 204 N. Y. 49 (1912).

§ 82. **Fire escapes.**— Such fire escapes as may be deemed necessary by the commissioner of labor shall be provided on the outside of every factory in this state consisting of three or more stories in height. Each escape shall connect with each floor above the first, and shall be of sufficient strength, well fastened and secured, and shall have landings or balconies not less than six feet in length and three feet in width, guarded by iron railings not less than three feet in height, embracing at least two windows at each story and connected with the interior by easily accessible and unobstructed openings. The balconies or landings shall be connected by iron stairs, not less than eighteen inches wide, with steps of not less than six inches tread, placed at a proper

slant and protected by a well-secured handrail on both sides, and shall have a drop ladder not less than twelve inches wide reaching from the lower platform to the ground.

The windows or doors to the landing or balcony of each fire escape shall be of sufficient size and located as far as possible, consistent with accessibility, from the stairways and elevator hatchways or openings, and a ladder from such fire escapes shall extend to the roof. Stationary stairs or ladders shall be provided on the inside of every factory from the upper story to the roof, as a means of escape in case of fire.

Penalty for non-compliance: see Penal Law, § 1275, subd. 4. Liability: see § 202, *post*. In a tenant-factory the owner alone is responsible for observance of this section (§ 94, *post*).

§ 83. **Commissioner of labor may order erection of fire escapes.**— Any other plan or style of fire escape shall be sufficient if approved in writing by the commissioner of labor. If there is no fire escape, or the fire escape in use is not approved by the commissioner of labor, he may, by a written order served upon the owner, proprietor or lessee of any factory, or the agent or superintendent thereof, or either of them, require one or more fire escapes to be provided therefor, at such locations and of such plan and style as shall be specified in such order. Within twenty days after the service of such order, the number of fire escapes required therein shall be provided, each of which shall be of the plan and style specified in the order, or of the plan and style described in the preceding section. If any of the doors, windows or other openings of any floor of any factory is obstructed by any form of stationary metal bars, gratings, or wire mesh, or if any metal obstruction or protective device for any such door, window or opening is not approved by the commissioner of labor, he shall, by a written order served upon the owner, proprietor or lessee of any factory, or the agent or superintendent thereof, or either of them, require such stationary bars, grating, mesh or other stationary obstruction to be forthwith removed. Immediately after the service of such order, the said stationary bars, grating or other obstruction shall be removed. [*As am'd by L.* 1910, *ch.* 461.]

In a tenant-factory the owner alone is responsible for observance of this section (§ 94, *post*).

By section 351 of the Insurance Law it is made the duty of the State fire marshal to enforce all laws relating to fire escapes outside of New York City. Prior to 1911 jurisdiction over the subject of fire escapes in New York City was vested exclusively in the local superintendent of buildings: City of New York v. Trustees of Sailors' Snug Harbor, 85 App. Div. 355; aff'd, 180 N. Y. 527. See also opinion of the Attorney-General, January 16, 1904 (Third General Report of the Department of Labor, p. 121). An amendment of the New York City charter of 1911 (adding sections 774 to 778-c) makes it the duty of the fire commissioner to enforce laws concerning the means of exit from factories.

§ 83-a. **Fire drills.**— In every factory in which more than twenty-five persons are regularly employed above the ground or first floor a fire drill of the occupants of such building shall be conducted at least once in every three months under the supervision of the local fire department or one of its officers. Appropriate rules and regulations to make effective this provision shall be prepared for the city of New York by the fire commissioner of such city, and for other parts of the state, by the state fire marshal. Such rules and regulations shall be posted on each floor of every factory to which they apply. In the city of New York the fire commissioner of such

city, and elsewhere, the state fire marshal is charged with the duty of enforcing this section. [*Added by L.* 1912, *ch.* 330.]

§ 83-b. **Automatic sprinklers.**— In every factory building over seven stories or over ninety feet in height in which wooden flooring or wooden trim is used and more than two hundred people are regularly employed above the seventh floor or more than ninety feet above the ground level of such building, the owner of the building shall install an automatic sprinkler system approved as to form and manner in the city of New York by the fire commissioner of such city, and elsewhere, by the state fire marshal. Such installation shall be made within one year after this section takes effect, but the fire commissioner of the city of New York in such city and the state fire marshal elsewhere may, for good cause shown, extend such time for an additional year. A failure to comply with this section shall be a misdemeanor as provided by section twelve hundred and seventy-five of the penal law and the provisions hereof shall also be enforced in the city of New York by the fire commissioner of such city in the manner provided by title three of chapter fifteen of the Greater New York charter, and elsewhere by the state fire marshal in the manner provided by article ten-a of the insurance law. [*Added by L.* 1912, *ch.* 332.]

§ 83-c. **Fire proof receptacles; gas jets; smoking.**— 1. Every factory shall be provided with properly covered fire proof receptacles, the number, style and location of which shall be approved in the city of New York by the fire commissioner, and elsewhere, by the commissioner of labor. There shall be deposited in such receptacles all inflammable waste materials, cuttings and rubbish. No waste materials, cuttings and rubbish shall be permitted to accumulate on the floors of any factory but shall be removed therefrom not less than twice each day. All such waste materials, cuttings and rubbish shall be entirely removed from a factory building at least once in each day.

2. All gas jets or lights in factories shall be properly enclosed by globes, wire cages or otherwise properly protected in a manner approved in the city of New York by the fire commissioner of such city, and elsewhere, by the commissioner of labor.

3. Smoking in a factory is prohibited. A notice of such prohibition stating the penalty for violation thereof shall be posted on every floor of such factory in English and also in such other language or languages as the fire commissioner of the city of New York in such city, and elsewhere, the state fire marshal, shall direct. The fire commissioner of the city of New York in such city, and elsewhere, the state fire marshal shall enforce the provisions of this subdivision. [*Added by L.* 1912, *ch.* 329.]

§ 84. **Walls, ceilings, floors and receptacles.**—The walls and ceilings of each workroom in a factory shall be lime washed or painted, when in the opinion of the commissioner of labor, it will be conducive to the health or cleanliness of the persons working therein. Floors shall be maintained in a safe condition and shall be kept clean and sanitary at all times. No person shall spit or expectorate upon the walls, floors, or stairs of any building used in whole or in part for factory purposes. Sanitary cuspidors shall be provided, in the discretion of the commissioner of labor, in every workroom in a factory in such numbers as the commissioner of labor may determine. Such cuspidors shall be thoroughly cleaned daily. Suitable

receptacles shall be provided and used for the storage of waste and refuse; such receptacles shall be maintained in a sanitary condition. [*As am'd by L.* 1910, *ch.* 114.]

In tenant-factories responsibility for cleanliness of halls, etc. is placed upon the owner by section 94, *post.*

Cf. special requirements for bakeries in §§ 112–114, *post;* and for laundries in § 92.

§ 85. **Size of rooms.**— No more employees shall be required or permitted to work in a room in a factory between the hours of six o'clock in the morning and six o'clock in the evening than will allow to each of such employees, not less than two hundred and fifty cubic feet of air space; and, unless by a written permit of the commissioner of labor, not less than four hundred cubic feet for each employee, so employed between the hours of six o'clock in the evening and six o'clock in the morning, provided such room is lighted by electricity at all times during such hours, while persons are employed therein.

Cf. requirement as to height of ceilings in bakeries in §§ 112 and 114, *post.*

§ 86. **Ventilation.**— The owner, agent or lessee of a factory shall provide, in each workroom thereof, proper and sufficient means of ventilation, and shall maintain proper and sufficient ventilation; if excessive heat be created or if steam, gases, vapors, dust or other impurities that may be injurious to health be generated in the course of the manufacturing process carried on therein the room must be ventilated in such a manner as to render them harmless, so far as is practicable; in case of failure the commissioner of labor shall order such ventilation to be provided. Such owner, agent or lessee shall provide such ventilation within twenty days after the service upon him of such order, and in case of failure, shall forfeit to the people of the state, ten dollars for each day after the expiration of such twenty days, to be recovered by the commissioner of labor.

Section 94, *post,* makes the owner as well as occupant in a tenant-factory responsible for observance of this section and the owner of a factory building is liable for a violation of this section even though by the terms of a lease a tenant agrees to comply with the law: People ex rel. Williams v. Eno, 134 App. Div. 527.

Cf. special requirements for bakeries in §§ 111 and 114, *post.*

§ 87. **Accidents to be reported.**— The person in charge of any factory shall keep a correct record of all deaths, accidents or injuries sustained by any person therein or on the premises, in such form as may be required by the commissioner of labor. Such record shall be open to the inspection of the commissioner of labor and a copy thereof shall be furnished to the said commissioner on demand. Within forty-eight hours after the time of the accident, death or injury, a report thereof shall be made in writing to the commissioner of labor, stating as fully as possible the cause of the death or the extent and cause of the injury, and the place where the injured person has been sent, with such other or further information relative thereto as may be required by the said commissioner, who may investigate the causes thereof and require such precautions to be taken as will prevent the recurrence of similar happenings. No statement contained in any such report shall be admissible in evidence in any action arising out of the death or accident therein reported. [*As am'd by L.* 1910, *ch.* 155.]

Compare § 20-a, *ante,* (building accidents) and § 126, *post* (accidents in mines and quarries); also §§ 47, 66 and 94 of the Public Service Commissions Law (Ch. 48 of Consolidated Laws).

§ 88. **Drinking water, wash-room and water-closets.**— In every factory there shall be provided at all times for the use of employees, a sufficient supply of clean and pure drinking water. Such water shall be supplied through proper pipe connections with water mains through which is conveyed the water used for domestic purposes, or, from a spring or well or body of pure water; if such drinking water be placed in receptacles in the factory, such receptacles shall be properly covered to prevent contamination and shall be thoroughly cleaned at frequent intervals. In every factory there shall be provided and maintained for the use of employees, suitable and convenient wash-rooms, adequately equipped with sinks and proper water service; and in all factories where lead, arsenic or other poisonous substances or injurious or noxious fumes, dust or gases are present as an incident or result of the business or processes conducted by such factory there shall be provided washing facilities which shall include hot water and individual towels. Where females are employed, dressing or emergency rooms shall be provided for their use; each such room shall have at least one window opening to the outer air and shall be enclosed by means of solid partitions or walls. In brass and iron foundries suitable provision shall be made and maintained for drying the working clothes of persons employed therein. In every factory there shall be provided suitable and convenient water-closets for each sex, in such number as the commissioner of labor may determine. Such water-closets shall be properly screened, lighted, ventilated and kept clean and sanitary; the enclosure of each closet shall be kept clean and sanitary and free from all obscene writing or marking. The water-closets used by females shall be entirely separated from those used by males and the entrances thereto shall be effectively screened. The water-closets shall be maintained inside the factory whenever practicable and in all cases, when required by the commissioner of labor. [*As am'd by L.* 1910, *ch.* 229, *and L.* 1912, *ch.* 336.]

In a tenant-factory the owner must provide water-closets, and the necessary plumbing and water to enable occupants to comply with all the provisions of this section (§ 94, *post*).

Cf. special requirements for bakeries in §§ 112 and 113, *post.*

Cf. § 168, *post.*

§ 89. **Time allowed for meals.**— In each factory at least sixty minutes shall be allowed for the noon-day meal, unless the commissioner of labor shall permit a shorter time. Such permit must be in writing and conspicuously posted in the main entrance of the factory, and may be revoked at any time. Where employees are required or permitted to work overtime for more than one hour after six o'clock in the evening, they shall be allowed at least twenty minutes to obtain a lunch, before beginning to work overtime.

§ 89-a. **Prohibition against eating meals in certain workrooms.**— No employee shall take or be permitted to take any food into a room or apartment in a factory, mercantile establishment, mill or workshop, commercial institution or other establishment or working place where lead, arsenic or other poisonous substances or injurious or noxious fumes, dust or gases exist in harmful conditions or are present in harmful quantities as an incident or result of the business conducted by such factory, commercial establishment, mill or workshop, commercial institution or other establishment or working place; and notice to the foregoing effect shall be posted in each

such room, or apartment. No employee, unless his presence is necessary for the proper conduct of the business, shall remain in any such room, apartment or enclosure during the time allowed for meals, and suitable provision shall be made and maintained by the employer for enabling employees to take their meals elsewhere in such establishment. [*Added by L.* 1912, *ch.* 336.]

See § 169, *post.*

§ 90. **Inspection of factory buildings.**— The commissioner of labor, or other competent person designated by him, upon request, shall examine any factory outside of the cities of New York and Brooklyn, to determine whether it is in a safe condition. If it appears to him to be unsafe, he shall immediately notify the owner, agent or lessee thereof, specifying the defects, and require such repairs and improvements to be made as he may deem necessary. If the owner, agent or lessee shall fail to comply with such requirement, he shall forfeit to the people of the state the sum of fifty dollars, to be recovered by the commissioner of labor in his name of office.

In a tenant-factory the owner alone is responsible for observance of this section (§ 94, *post*).

§ 91. **Inspection of boilers in factories.**—All boilers used for generating steam or heat for factory purposes shall be kept in good order, and the owner, agent, manager or lessee of such factory shall have such boilers inspected by a competent person approved by the commissioner of labor once in six months, and shall file a certificate showing the result thereof in such factory office and a duplicate thereof in the office of the commissioner of labor. Each boiler or nest of boilers used for generating steam or heat for factory purposes shall be provided with a proper safety-valve and with steam and water *guages, to show, respectively, the pressure of steam and the height of water in the boilers. Every boiler house in which a boiler or nest of boilers is placed, shall be provided with a steam gauge properly connected with the boilers, and another steam gauge shall be attached to the steam pipe in the engine house, and so placed that the engineer or fireman can readily ascertain the pressure carried. Nothing in this section shall apply to boilers in factories which are regularly inspected by competent inspectors acting under the authority of local laws or ordinances.

In a tenant-factory both owner and occupant are responsible for observance of this section (§ 94, *post*).

For annual inspection of boilers in New York City, see § 342 of the charter, given under topic "Inspection of steam boilers, etc." under LICENSING OF TRADES, *post.* Inspection of boilers on steamboats is provided for by §§ 5-6 of the Navigation Law (ch. 37 of the Consolidated Laws). Locomotive boiler inspection, see Railroad Law, § 72, given under "Inspection of Locomotive Boilers" under RAILWAY LABOR, *post.* Section 351 of the Insurance Law makes it the duty of the state fire marshal to enforce all laws relating to inspection of steam boilers outside of New York City.

§ 92. **Laundries.**—A shop, room or building where one or more persons are employed in doing public laundry work by way of trade or for purposes of gain is a factory within the meaning of this chapter, and shall be subject to the visitation and inspection of the commissioner of labor and the provisions of this chapter in the same manner as any other factory. No such public laundry work shall be done in a room used for a sleeping or living room. All such laundries shall be kept in a clean condition and free from vermin and all impurities of an infectious or contagious nature. This section shall

* So in original.

not apply to any female engaged in doing custom laundry work at her home for a regular family trade.

An hotel laundry is not a public laundry. Opinion of the Attorney-General, March 5 and September 28, 1906.

§ 93. **Prohibited employment of women and children.**—No child under the age of sixteen years shall be employed or permitted to work in operating or assisting in operating any of the following machines: circular or band saws, wood shapers, woodjointers, planers, sandpaper or wood polishing machinery; picker machines or machines used in picking wool, cotton, hair or any upholstering material; paper lace machines; burnishing machines in any tannery or leather manufactory; job or cylinder printing presses having motive power other than foot; woodturning or boring machinery; drill presses; metal or paper cutting machines; corner staying machines in paper box factories; stamping machines used in sheet metal and tinware manufacturing or in washer and nut factories; machines used in making corrugating rolls; steam boilers; dough brakes or cracker machinery of any description; wire or iron straightening machinery; rolling mill machinery, power punches or shears; washing, grinding or mixing machinery, *calendar rolls in rubber manufacturing; or laundering machinery. No child under the age of sixteen years shall be employed or permitted to work at adjusting or assisting in adjusting any belt to any machinery; oiling or assisting in oiling, wiping or cleaning machinery; or in any capacity in preparing any composition in which dangerous or poisonous acids are used; or in the manufacture or packing of paints, dry colors, or red or white lead; or in dipping, dyeing or packing matches; or in the manufacture, packing or storing of powder, dynamite, nitro glycerine, compounds, fuses, or other explosives; or in or about any distillery, brewery, or any other establishment where malt or alcoholic liquors are manufactured, packed, wrapped, or bottled; and no female under the age of sixteen shall be employed or permitted to work in any capacity where such employment compels her to remain standing constantly. No child under the age of sixteen years shall be employed or permitted to have the care, custody or management of or to operate an elevator either for freight or passengers. No person under the age of eighteen years shall be employed or permitted to have the care, custody or management of or to operate an elevator either for freight or passengers running at a speed of over two hundred feet a minute. No male person under eighteen years or woman under twenty-one years of age shall be permitted or directed to clean machinery while in motion. No male child under the age of eighteen years, nor any female, shall be employed in any factory in this state in operating or using any emery, tripoli, rouge, corundum, stone, carborundum or any abrasive, or emery polishing or buffing wheel, where articles of the baser metals or of iridium are manufactured. [*As am'd by L.* 1909, *ch.* 299, *and L.* 1910, *ch.* 107.]

See § 131, *post,* relative to employment of children or women in mines or quarries.

Children may not assume the obvious risks of operating dangerous machinery contrary to this section, violation of which is *prima facie* evidence of negligence. Gallenkamp v. Garvin Machine Co., 179 N. Y. 588, reversing 91 App. Div. 141, on dissenting opinion below; and Rahn v. Standard Optical Co., 110 App. Div. 501. See also § 202, *post.*

* So in original.

§ 93-a. **Employment of females after childbirth prohibited.**— It shall be unlawful for the owner, proprietor, manager, foreman or other person in authority of any factory, mercantile establishment, mill or workshop to knowingly employ a female or permit a female to be employed therein within four weeks after she has given birth to a child. [*Added by L.* 1912, *ch.* 331.]

§ 94. **Tenant-factories.**— A tenant-factory within the meaning of the term as used in this chapter is a building, separate parts of which are occupied and used by different persons, companies or corporations, and one or more of which parts is so used as to constitute in law a factory. The owner, whether or not he is also one of the occupants, instead of the respective lessees or tenants, shall be responsible for the observance and punishable for the nonobservance of the following provisions of this article, anything in any lease to the contrary notwithstanding,— namely, the provisions of sections seventy-nine, eighty, eighty-two, eighty-three, eighty-six, ninety and ninety-one, and the provisions of section eighty-one with respect to the lighting of halls and stairways; except that the lessees or tenants also shall be responsible for the observance and punishable for the nonobservance of the provisions of sections seventy-nine, eighty, eighty-six and ninety-one within their respective holdings. The owner of every tenant-factory shall provide each separate factory therein with water-closets in accordance with the provisions of section eighty-eight, and with proper and sufficient water and plumbing pipes and a proper and sufficient supply of water to enable the tenant or lessee thereof to comply with all the provisions of said section. But as an alternative to providing water-closets within each factory as aforesaid, the owner may provide in the public hallways or other parts of the premises used in common, where they will be at all times readily and conveniently accessible to all persons employed on the premises not provided for in accordance with section eighty-eight, separate water-closets for each sex, of sufficient numbers to accommodate all such persons. Such owner shall keep all water-closets located as last specified at all times provided with proper fastenings, and properly screened, lighted, ventilated, clean, sanitary and free from all obscene writing or marking. Outdoor water-closets shall only be permitted where the commissioner of labor shall decide that they are necessary or preferable, and they shall then be provided in all respects in accordance with his directions. The owner of every tenant-factory shall keep the entire building well drained and the plumbing thereof in a clean and sanitary condition; and shall keep the cellar, basement, yards, areaways, vacant rooms and spaces, and all parts and places used in common in a clean, sanitary and safe condition, and shall keep such parts thereof as may reasonably be required by the commissioner of labor properly lighted at all hours or times when said building is in use for factory purposes. The term "owner" as used in this article shall be construed to mean the owner or owners of the freehold of the premises, or the lessee or joint lessees of the whole thereof, or his, her or their agent in charge of the property. The lessee or tenant of any part of a tenant-factory shall permit the owner, his agents and servants, to enter and remain upon the demised premises whenever and so long as may be necessary to comply with the provisions of law, the responsibility for which is by this section placed upon the owner; and his failure or refusal so to do shall be a cause for dispossessing said tenant by summary proceedings to recover possession of real property, as provided in the code

of civil procedure. And whenever by the terms of a lease any lessee or tenant shall have agreed to comply with or carry out any of such provisions, his failure or refusal so to do shall be a cause for dispossessing said tenant by summary proceedings as aforesaid. Except as in this article otherwise provided the person or persons, company or corporation conducting or operating a factory whether as owner or lessee of the whole or of a part of the building in which the same is situated or otherwise, shall be responsible for the observance and punishable for the nonobservance of the provisions of this article, anything in any lease or agreement to the contrary notwithstanding.

See notes on §§ 79 and 86, *ante*.

§ 95. **Unclean factories.**— If the commissioner of labor finds evidence of contagious disease in any factory he shall affix to any articles therein exposed to such contagion a label containing the word "unclean" and shall notify the local board of health, who may disinfect such articles and thereupon remove such label. If the commissioner of labor finds that any workroom or factory is foul, unclean, or unsanitary, he may, after first making and filing in the public records of his office a written order stating the reasons therefor, affix to any articles therein found a label containing the word "unclean." No one but the commissioner of labor shall remove any label so affixed; and he may refuse to remove it until such articles shall have been removed from such factory and cleaned, or until such room or rooms shall have been cleaned or made sanitary. [*As am'd by L.* 1912, *ch.* 334.]

§ 96. **Definition of "custodian."**— The word "custodian" as used in this article shall include any person, organization or society having the custody of a child.

ARTICLE 7.

Tenement-Made Articles.

[NOTE.— *An earlier statute* (*L.* 1884, *ch.* 272), *which attempted to prohibit the manufacture of cigars in tenements, was declared unconstitutional* (*Matter of Jacobs*, 98 *N. Y.* 98). *Violation is a misdemeanor* (*Penal Law*, § 1275, *subd.* 5, *post*). *"Tenement house" is defined in* § 2, *ante*.]

Section 100. Manufacturing, altering, repairing or finishing articles in tenements.
101. Register of persons to whom work is given.
102. Goods unlawfully manufactured to be labeled.
103. Powers and duties of boards of health relative to tenement-made articles.
104. Inspection of articles manufactured in other states.
105. Owners of tenement and dwelling houses not to permit the unlawful use thereof.

§ 100. **Manufacturing, altering, repairing or finishing articles in tenements.** 1. No tenement-house nor any part thereof shall be used for the purpose of manufacturing, altering, repairing or finishing therein, any coats, vests, knee-pants, trousers, overalls, cloaks, hats, caps, suspenders, jerseys, blouses, dresses, waists, waistbands, underwear, neckwear, furs, fur trimmings, fur garments, skirts, shirts, aprons, purses, pocket-books, slippers, paper boxes, paper bags, feathers, artificial flowers, cigarettes, cigars, umbrellas, or articles of rubber, nor for the purpose of manufacturing, preparing or packing macaroni, spaghetti, ice cream, ices, candy, confectionery, nuts or preserves, without a license therefor as provided in this article. But nothing herein contained shall apply to collars, cuffs, shirts or shirt waists made of cotton or linen

fabrics that are subjected to the laundrying process before being offered for sale.

2. Application for such a license shall be made to the commissioner of labor by the owner of such tenement-house, or by his duly authorized agent. Such application shall describe the house by street number or otherwise, as the case may be, in such manner as will enable the commissioner of labor easily to find the same; it shall also state the number of apartments in such house; it shall contain the full name and address of the owner of the said house, and shall be in such form as the commissioner of labor may determine. Blank applications shall be prepared and furnished by the commissioner of labor.

3. Upon receipt of such application the commissioner of labor shall consult the records of the local health department or board, or other appropriate local authority charged with the duty of sanitary inspection of such houses; if such records show the presence of any infectious, contagious or communicable disease, or the existence of any uncomplied-with orders or violations which indicate the presence of unsanitary conditions in such house, the commissioner of labor may, without making an inspection of the building, deny such application for a license, and may continue to deny such application until such time as the records of said department, board or other local authority show that the said tenement-house is free from the presence of infectious, contagious or communicable disease, and from all unsanitary conditions. Before, however, any such license is granted, an inspection of the building sought to be licensed must be made by the commissioner of labor, and a statement must be filed by him as a matter of public record, to the effect that the records of the local health department or board or other appropriate authority charged with the duty of sanitary inspection of such houses show the existence of no infectious, contagious or communicable disease nor of any unsanitary conditions in the said house; such statement must be dated and signed in ink with the full name of the employee responsible therefor. A similar statement similarly signed, showing the results of the inspection of the said building, must also be filed in the office of the commissioner of labor before any license is granted. If the commissioner of labor ascertain that such building is free from infectious, contagious or communicable disease, that there are no defects of plumbing that will permit the free entrance of sewer air, that such building is in a clean and proper sanitary condition and that the articles specified in this section may be manufactured therein under clean and healthful conditions, he shall grant a license permitting the use of such building, for the purpose of manufacturing, altering, repairing or finishing such articles.

4. Such license may be revoked by the commissioner of labor if the health of the community or of the employees requires it, or if the owner of the said tenement-house, or his duly authorized agent, fails to comply with the orders of the commissioner of labor within ten days after the receipt of such orders, or if it appears that the building to which such license relates is not in a healthy and proper sanitary condition. In every case where a license is revoked or denied by the commissioner of labor the reasons therefor shall be stated in writing, and the records of such revocation or denial shall be deemed public records. Where a license is revoked, before such tenement-house can

again be used for the purposes specified in this section, a new license must be obtained, as if no license had previously existed.

5. Every tenement-house and all the parts thereof in which any of the articles named in this section are manufactured, altered, repaired or finished shall be kept in a clean and sanitary condition and shall be subject to inspection and examination by the commissioner of labor, for the purpose of ascertaining whether said garments or articles, or part or parts thereof, are clean and free from vermin and every matter of an infectious or contagious nature. An inspection shall be made by the commissioner of labor of each licensed tenement-house not less than once in every six months, to determine its sanitary condition, and shall include all parts of such house and the plumbing thereof. Before making such inspection the commissioner of labor may consult the records of the local department or board charged with the duty of sanitary inspection of tenement-houses, to determine the frequency of orders issued by such department or board in relation to the said tenement-house, since the last inspection of such building was made by the commissioner of labor. Whenever the commissioner of labor finds any unsanitary condition in a tenement-house for which a license has been issued as provided in this section, he shall at once issue an order to the owner thereof directing him to remedy such condition forthwith. Whenever the commissioner of labor finds any of the articles specified in this section manufactured, altered, repaired or finished, or in process thereof, in a room or apartment of a tenement-house, and such room or apartment is in a filthy condition, he shall notify the tenants thereof to immediately clean the same, and to maintain it in a cleanly condition at all times; where the commissioner of labor finds such room or apartment to be habitually kept in a filthy condition, he may in his discretion cause to be affixed to the entrance door of such apartment a placard calling attention to such facts and prohibiting the manufacture, alteration, repair or finishing of said articles therein. No person, except the commissioner of labor, shall remove or deface any such placard so affixed.

See provision for "tagging" of infected or unclean goods specified in this section, in tenant-factories in § 95, *ante*

6. None of the articles specified in this section shall be manufactured, altered, repaired or finished in any room or apartment of a tenement-house where there is or has been a case of infectious, contagious or communicable disease in such room or apartment, until such time as the local department or board of health shall certify to the commissioner of labor that such disease has terminated, and that said room or apartment has been properly disinfected, if disinfection after such disease is required by the local ordinances, or by the rules or regulations of such department or board. None of the articles specified in this section shall be manufactured, altered, repaired or finished in a part of a cellar or basement of a tenement-house, which is more than one-half of its height below the level of the curb or ground outside of or adjoining the same. No person shall hire, employ or contract with any person to manufacture, alter, repair or finish any of the articles named in this section in any room or apartment in any tenement-house not having a license therefor issued as aforesaid. None of the articles specified in this section shall be manufactured, altered, repaired or finished in any room or apartment of a tenement-house unless said room or apartment shall be well lighted and ventilated and shall contain at least five hundred cubic feet of air space

for every person working therein, or by any person other than the members of the family living therein; except that in licensed tenement-houses persons not members of the family may be employed in apartments on the ground floor or second floor, used only for shops of dressmakers who deal solely in the custom trade direct to the consumer, provided that such apartments shall be in the opinion of the commissioner of labor in the highest degree sanitary, well lighted, well ventilated and plumbed, and provided further that the whole number of persons therein shall not exceed one to each one thousand cubic feet of air space, and that there shall be no children under fourteen years of age living or working therein; before any such room or apartment can be so used a special permit therefor shall be issued by the commissioner of labor, a copy of which shall be entered in his public records with a statement of the reasons therefor.

Nothing in this section contained shall prevent the employment of a tailor or seamstress by any person or family for the purpose of making, altering, repairing or finishing any article of wearing apparel for the use of such person or family. Nor shall this section apply to a house if the only work therein on the articles herein specified be carried on in a shop on the main or ground floor thereof with a separate entrance to the street, unconnected with living rooms and entirely separate from the rest of the building by closed partitions without any openings whatsoever and not used for sleeping or cooking.

§ 101. **Register of persons to whom work is given.**— Persons contracting for the manufacturing, altering, repairing or finishing of any of the articles mentioned in section one hundred of this article or giving out material from which they or any part of them are to be manufactured, altered, repaired or finished, shall keep a register of the names and addresses plainly written in English of the persons to whom such articles or materials are given to be so manufactured, altered, repaired or finished or with whom they have contracted to do the same. It shall be incumbent upon all persons contracting for the manufacturing, altering, repairing or finishing of any of the articles specified in section one hundred of this article or giving out material from which they or any part of them are to be manufactured, altered, repaired or finished, before giving out the same to ascertain from the office of the commissioner of labor whether the tenement-house in which such articles or materials are to be manufactured, altered, repaired or finished, is licensed as provided in this article, and also to ascertain from the local department or board of health the names and addresses of all persons then sick of any infectious, contagious or communicable disease, and residing in tenement-houses; and none of the said articles nor any material from which they or any part of them are to be manufactured, altered, repaired or finished shall be given out or sent to any person residing in a tenement-house that is not licensed as provided in this article, or to any person residing in a room or apartment in which there exists any infectious, contagious or communicable disease. The register mentioned in this section shall be subject to inspection by the commissioner of labor, and a copy thereof shall be furnished on his demand as well as such other information as he may require.

§ 102. **Goods unlawfully manufactured to be labeled.**—Articles manufactured, altered, repaired or finished contrary to the provisions of section one hundred of this chapter shall not be sold or exposed for sale by any person. The commissioner of labor may conspicuously affix to any such article found to be unlawfully manufactured, altered, repaired or finished, a label containing the words "tenement made" printed in small pica capital letters on a tag not less than four inches in length, or may seize and hold such article until the same shall be disinfected or cleaned at the owner's expense. The commissioner of labor shall notify the person stated by the person in possession of said article to be the owner thereof, that he has so labeled or seized it. No person except the commissioner of labor shall remove or deface any tag or label so affixed. Unless the owner or person entitled to the possession of an article so seized shall provide for the disinfection or cleaning thereof within one month thereafter it may be destroyed.

§ 103. **Powers and duties of boards of health relative to tenement-made articles.**— If the commissioner of labor finds evidence of disease present in a workshop or in a room or apartment in a tenement-house or dwelling house in which any of the articles named in section one hundred of this chapter are manufactured, altered, repaired or finished or in process thereof, he shall affix to such articles the label prescribed in the preceding section, and immediately report to the local board of health, who shall disinfect such articles, if necessary, and thereupon remove such label. If the commissioner of labor finds that infectious or contagious diseases exist in a workshop, room or apartment of a tenement or dwelling house in which any of the articles specified in section one hundred of this chapter are being manufactured, altered, repaired or finished, or that articles manufactured or in process of manufacture therein are infected or that goods used therein are unfit for use, he shall report to the local board of health. The local health department or board in every city, town and village whenever there is any infectious, contagious or communicable disease in a tenement-house shall cause an inspection of such tenement-house to be made within forty-eight hours. If any of the articles specified in section one hundred of this chapter are found to be manufactured, altered, repaired or finished, or in process thereof in an apartment in which such disease exists, such board shall issue such order as the public health may require, and shall at once report such facts to the commissioner of labor, furnishing such further information as he may require. Such board may condemn and destroy all such infected article or articles manufactured or in the process of manufacture under unclean or unhealthful conditions. The local health department or board or other appropriate authority charged with the duty of sanitary inspection of such houses in every city, town and village shall, when so requested by the commissioner of labor, furnish copies of its records as to the presence of infectious, contagious or communicable disease, or of unsanitary conditions in said houses; and shall furnish such other information as may be necessary to enable the commissioner of labor to carry out the provisions of this article.

With this section is to be compared section 33 of the Public Health Law (ch. 49, Consolidated Laws), which reads as follows:

Section 33. *Manufactures in tenement houses and dwellings.*— No room or apartment in a tenement or dwelling house, used for eating or sleeping purposes, shall be used for the manufacture, wholly or partly, of coats, vests, trousers, knee-

pants, overalls, cloaks, shirts, purses, feathers, artificial flowers or cigars, except by the members of the family living therein, which shall include a husband and wife and their children, or the children of either. A family occupying or controlling such a workshop shall, within fourteen days from the time of beginning work therein, notify the board of health of the city, village or town, where such workshop is located, or a special inspector appointed by such board, of the location of such workshop, the nature of the work carried on, and the number of persons employed therein; and thereupon such board shall, if it deems advisable, cause a permit to be issued to such family to carry on the manufacture specified in the notice. Such board may appoint as many persons as it deems advisable to act as special inspectors. Such special inspectors shall receive no compensation, but may be paid by the board their reasonable and necessary expenses. If a board of health or such inspector shall find evidence of infectious or contagious diseases present in any workshop, or in goods manufactured or in process of manufacture therein, the board shall issue such orders as the public health may require, and shall condemn and destroy such infectious and contagious articles, and may, if necessary to protect the public health, revoke any permit granted by it for manufacturing goods in such workshop. If a board of health or any such inspector shall discover that any such goods are being brought into the state, having been manufactured, in whole or in part, under unhealthy conditions, such board or inspector shall examine such goods, and if they are found to contain vermin, or to have been made in improper places or under unhealthy conditions, the board may make such orders as the public health may require, and may condemn and destroy such goods.

§ 104. Inspection of articles manufactured in other states.— Whenever it is reported to the commissioner of labor that any of the articles named in section one hundred of this chapter are being shipped into this state, having previously been manufactured in whole or in part under unclean, unsanitary or unhealthy conditions, said commissioner shall examine said articles and the conditions of their manufacture, and if upon such examination said goods or any part of them are found to contain vermin or to have been manufactured in improper places or under unhealthy conditions, he shall forthwith affix to them the tag or label hereinbefore described and report to the local board of health, which board shall thereupon make such order or orders as the public safety may require.

§ 105. Owners of tenement and dwelling houses not to permit the unlawful use thereof.— The owner or agent of a tenement-house or dwelling house shall not permit the use thereof for the manufacture, repair, alteration or finishing of any of the articles mentioned in this article contrary to its provisions. If a room or apartment in such tenement-house or dwelling house be so unlawfully used, the commissioner of labor shall serve a notice thereof upon such owner or agent. Unless such owner or agent shall cause such unlawful manufacture to be discontinued within ten days after the service of such notice, or within fifteen days thereafter institutes and faithfully prosecutes proceedings for the dispossession of the occupant of a tenement-house, or dwelling house, who unlawfully manufactures, repairs, alters or finishes such articles therein, he shall be deemed guilty of a violation of this article, as if he, himself, was engaged in such unlawful manufacture, repair, alteration or finishing. The unlawful manufacture, repair, alteration or finishing of any of such articles by the occupant of a room or apartment of a tenement-house, or dwelling shall be a cause for dispossessing such occupant by summary proceedings to recover possession of real property, as provided in the code of civil procedure.

ARTICLE 8.

Bakeries and Confectioneries.†

[*Non-compliance with the provisions of this article is a misdemeanor (Penal Law, § 1275, subd. 6, post.) The provisions of Art. 6 as to factories generally, apply to bakeries and confectioneries*: § 111.]

Section 110. Hours of labor in bakeries and confectioneries.
111. Definitions.
112. General requirements.
113. Maintenance.
114. Inspection of bakeries.

§ 110. **Hours of labor in bakeries and confectioneries.**—No employee shall be required or permitted to work in a biscuit, bread or cake bakery or confectionery establishment more than sixty hours in any one week, or more than ten hours in any one day, unless for the purpose of making a shorter work day on the last day of the week; nor more hours in any one week than will make an average of ten hours per day for the number of days during such week in which such employee shall work.

Declared unconstitutional, April, 1905: Lochner v. People of N. Y., 198 U. S. 45, 177 N. Y. 145.

§ 111. **Definitions.**—All buildings or rooms, except kitchens in hotels and private residences, used or occupied for the purpose of making, preparing or baking bread, biscuits, pastry, cakes, doughnuts, crullers, noodles, macaroni or spaghetti, to be sold or consumed on or off the premises, shall for the purpose of this act be deemed bakeries. The commissioner of labor shall have the same powers with respect to the machinery, safety devices and sanitary conditions in hotel bakeries that he has with respect thereto in bakeries as defined by this chapter. The term cellar when used in this article shall mean a room or part of a building which is more than one-half its height below the level of the curb or ground adjoining the building (excluding areaways). The term owner as used in this article shall be construed to mean the owner or owners of the freehold of the premises, or the lessee or joint lessees of the whole thereof, or his, her or their agent in charge of the property. The term occupier shall be construed to mean the person, firm or corporation in actual possession of the premises, who either himself makes, prepares or bakes any of the articles mentioned in this section, or hires or employs others to do it for him. Bakeries are factories within the meaning of this chapter, and subject to all the provisions of article six hereof. [*As am'd by L.* 1911, *ch.* 637.]

§ 112. **General requirements.**—All bakeries shall be provided with proper and sufficient drainage and with suitable sinks, supplied with clean running water, for the purpose of washing and keeping clean the utensils and apparatus used therein. All bakeries shall be provided with windows, or if deemed necessary by the commissioner of labor, with ventilating hoods and pipes over ovens and ashpits, or with other mechanical means, to so ventilate same as to render harmless to the persons working therein, any steam, gases, vapors, dust, excessive heat or any impurities that may be generated or released by or in the process of making, preparing or baking in said bakeries. Every bakery shall be at least eight feet in height measured from

† As to bakeries in tenement houses, see the Tenement House Law (ch. 99, Consolidated Laws), § 40.

the surface of the finished floor to the under side of the ceiling, and shall have a flooring of even, smooth cement, or of tiles laid in cement, or a wooden floor, so laid and constructed as to be free from cracks, holes and interstices, except that any cellar or basement less than eight feet in height which was used for a bakery on the second day of May, eighteen hundred and ninety-five, need not be altered to conform to this provision with respect to height; the side walls and ceilings shall be either plastered, ceiled or wainscoted. The furniture, troughs and utensils shall be so arranged and constructed as not to prevent their cleaning or the cleaning of every part of the bakery. Every bakery shall be provided with a sufficient number of water-closets, and such water-closets shall be separate and apart from and unconnected with the bakeroom or rooms where food products are stored or sold. [*As am'd by L.* 1911, *ch.* 637.]

§ 113. Maintenance.—All floors, walls, stairs, shelves, furniture, utensils, yards, areaways, plumbing, drains and sewers, in or in connection with bakeries, in bakery water-closets and washrooms, in rooms where raw materials are stored, and in rooms where the manufactured product is stored, shall at all times be kept in good repair, and maintained in a clean and sanitary condition, free from all kinds of vermin. All interior woodwork, walls and ceilings shall be painted or limewashed once every three months, where so required by the commissioner of labor. Proper sanitary receptacles shall be provided and used for storing coal, ashes, refuse and garbage. Receptacles for refuse and garbage shall have their contents removed from bakeries daily and shall be maintained in a cleanly and sanitary condition at all times; the use of tobacco in any form in a bakery or room where raw materials or manufactured product of such bakery is stored is prohibited. No person shall sleep, or be permitted, allowed or suffered to sleep in a bakery, in a room where raw materials are stored, or in rooms where the manufactured product is stored or sold, and no domestic animals or birds, except cats, shall be allowed to remain in any such rooms. [*As am'd by L.* 1911, *ch.* 637.]

§ 114. Inspection of bakeries.—It shall be the duty of the owner of a building wherein a bakery is located to comply with all the provisions of section one hundred and twelve of this article, and of the occupier to comply with all the provisions of section one hundred and thirteen of this article, unless by the terms of a valid lease the responsibility for compliance therewith has been undertaken by the other party to the lease, and a duplicate original lease, containing such obligation, shall have been previously filed in the office of the commissioner of labor, in which event the party assuming the responsibility shall be responsible for such compliance. The commissioner of labor may, in his discretion, apply any or all of the provisions of this article to a factory located in a cellar wherein any food product is manufactured, provided that basements or cellars used as confectionery or ice cream manufacturing shops shall not be required to conform to the requirement as to height of rooms. Such establishments shall be not less than seven feet in height, except that any cellar or basement so used before October first, nineteen hundred and six, which is more than six feet in height need not be altered to conform to this provision. If on inspection the commissioner of labor find a bakery or any part thereof to be

so unclean, ill-drained or ill-ventilated as to be unsanitary, he may, after not less than forty-eight hours' notice in writing, to be served by affixing the notice on the inside of the main entrance door of said bakery, order the person found in charge thereof immediately to cease operating it until it shall be properly cleaned, drained or ventilated. If such bakery be thereupon continued in operation or be thereafter operated before it be properly cleaned, drained or ventilated, the commissioner of labor may, after first making and filing in the public records of his office a written order stating the reasons therefor, at once and without further notice fasten up and seal the oven or other cooking apparatus of said bakery, and affix to all materials, receptacles, tools and instruments found therein, labels or conspicuous signs bearing the word "unclean." No one but the commissioner of labor shall remove any such seal, label or sign, and he may refuse to remove it until such bakery be properly cleaned, drained or ventilated. [*As am'd by L.* 1911, *ch.* 637.]

ARTICLE 9.

Mines, Tunnels and Quarries and Their Inspection.

[*Non-compliance with the provisions of this article is a misdemeanor (Penal Law,* § 1270, *subd.* 2). *Violation of any of the safety provisions of the article renders the master liable in case of injury to employees* (§ 202, *post*).]

Section 120. Duties of commissioner of labor relating to mines, tunnels and quarries; record and report.
121. Outlets of mines.
122. Ventilation and timbering of mines and tunnels.
123. Riding on loaded cars; storage of inflammable supplies.
124. Inspection of steam boilers and apparatus; steam, air and water * guages.
125. Use of explosives; blasting.
126. Report of accidents.
127. Notice of dangerous condition.
128. Traveling ways.
129. Notice of opening new mine, shaft or quarry.
130. Notice of abandonment.
131. Employment of women and children.
132. Underground workings to be equipped with head house and doors.
133. Mines and tunnels to be equipped with wash-rooms.
134. Method of exploding blasts.
134-a. Hours of labor.
134-b. Medical attendance and regulations.
134-c. Penalties.
134-d. [Air pipes in tunnels asd caissons.]
134-e. [Electric lights in tunnels and caissons.]
135. Enforcement of article.
136. Admission of inspectors to mines and tunnels.

§ 120. **Duties of commissioner of labor relating to mines, tunnels and quarries; record and report.**— The commissioner of labor shall see that every necessary precaution is taken to insure the safety and health of employees employed in the mines and quarries and in the construction of tunnels of the state and shall prescribe rules and regulations therefor; [†] keep a record of the names and location of such mines, tunnels and quarries, and the names of the persons or corporations owning or operating the same; collect data concerning the working thereof; examine carefully into the method of timbering shafts, drifts, inclines, slopes and tunnels, through which employees

* So in original.

† See present rules and regulations prescribed by Commissioner of Labor following § 136, *post.*

and other persons pass, in the performance of their daily labor, and see that the persons or corporations owning and operating such mines and quarries and constructing tunnels comply with the provisions of this chapter; and such information shall be furnished by the person operating such mine, tunnel or quarry, upon the demand of the commissioner of labor.

The commissioner of labor shall keep a record of all mine, tunnel and quarry examinations, showing the date thereof, and the condition in which the mines, tunnels and quarries are found, and the manner of working the same. He shall make an annual report to the legislature during the month of January, containing a statement of the number of mines, tunnels and quarries visited, the number in operation, the number of men employed, and the number and cause of accidents, fatal and non-fatal, that may have occurred in and about the same.

§ 121. Outlets of mines.— If, in the opinion of the commissioner of labor, it is necessary for safety of employees, the owner, operator or superintendent of a mine operating through either a vertical or inclined shaft, or a horizontal tunnel, shall not employ any person therein unless there are in connection with the subterranean workings thereof not less than two openings or outlets, at least one hundred and fifty feet apart, and connected with each other. Such openings or outlets shall be so constructed as to provide safe and distinct means of ingress and egress from and to the surface, at all times, for the use of the employees of such mine.

§ 122. Ventilation and timbering of mines and tunnels.— In each mine or tunnel a ventilating current shall be conducted and circulated along the face of all working places and through the roadways, in sufficient quantities to insure the safety of employees and remove smoke and noxious gases.

Each owner, agent, manager or lessee of a mine or tunnel shall cause it to be properly timbered, and the roof and sides of each working place therein properly secured. No person shall be required or permitted to work in an unsafe place or under dangerous material, except to make it secure.

§ 123. Riding on loaded cars; storage of inflammable supplies.— No person shall ride or be permitted to ride on any loaded car, cage or bucket into or out of a mine or tunnel in process of construction. No powder or oils of any description shall be stored in a mine, tunnel or quarry, or in or around shafts, engine or boiler-houses, and all supplies of an inflammable and destructive nature shall be stored at a safe distance from the mine or tunnel openings.

§ 124. Inspection of steam boilers and apparatus; steam, air and water gauges.—All boilers used in generating steam for mining or tunneling purposes shall be kept in good order, and the owner, agent, manager or lessee of such mine or tunnel shall have such boilers inspected by a competent person, approved by the commissioner of labor, once in six months, and shall file a certificate showing the result thereof in the mine or tunnel office and a duplicate thereof in the office of the commissioner of labor. All engines, brakes, cages, buckets, ropes and chains shall be kept in good order and inspected daily by the superintendent of the mine or tunnel or a person designated by him. All lifts, hoists, ropes and other mechanical devices shall be properly designed and maintained to sustain the weight intended to be placed thereon or suspended therefrom, such factors of safety being used as are generally accepted as sufficient by competent engineers, and all cars and lifts shall be

supplied with safety brakes. All hoisting ropes shall at all times be of a breaking strength of not less than five times the gross load suspended from them, including weight of rope itself. Each boiler or battery of boilers used in mining or tunneling for generating steam, shall be provided with a proper safety valve and with steam and water gauges, to show, respectively, the pressure of steam and the height of water in the boilers. Every boiler-house in which a boiler or nest of boilers is placed, shall be provided with a steam gauge properly connected with the boilers, and another steam gauge shall be attached to the steam pipe in the engine-house, and so placed that the engineer or fireman can readily ascertain the pressure carried. Every tunnel in which men are working under artificial air pressure shall be furnished with properly equipped and placed gauges capable at all times of showing the weight or pressure of air in said tunnel, and said gauge shall at all times during working hours be accessible to all persons working on said tunnel.

§ 125. **Use of explosives; blasting.**— When high explosives other than gunpowder are used in a mine, tunnel or quarry, the manner of storing, keeping, moving, charging and firing, or in any manner using such explosives, shall be in accordance with rules [*] prescribed by the commissioner of labor.

In charging holes for blasting, in slate, rock or ore in any mine, tunnel or quarry, no iron or steel pointed needle or tamping bar shall be used, unless the end thereof is tipped with at least six inches of copper or other soft material. No person shall be employed to blast, unless the mine or tunnel superintendent, or person having charge of such mine or tunnel is satisfied that he is qualified, by experience, to perform the work with ordinary safety. When a blast is about to be fired in a mine or tunnel, timely notice thereof shall be given by the person in charge of the work, to all persons who may be in danger therefrom.

§ 126. **Report of accidents.**— Whenever loss of life or an accident causing an injury incapacitating any person for work shall occur in the operation of a mine or quarry, or in the construction or repair of a tunnel, the owner, agent, manager, lessee, contractor, subcontractor, or person in charge thereof, shall keep a correct record of all deaths, accidents or injuries sustained by any person therein or on the premises or works, in such form as may be required by the commissioner of labor. Such record shall be open to the inspection of the commissioner of labor and a copy thereof shall be furnished to the said commissioner on demand. Within forty-eight hours after the accident, death or injury a report thereof shall be made in writing to the commissioner of labor, stating as fully as possible the cause of the death or the extent and cause of the injury, and the place where the injured person has been sent, with such other or further information relative thereto as may be required by the said commissioner, who may investigate the causes thereof and require such precautions to be taken as will prevent the recurrence of similar happenings. No statement contained in any such report shall be admissible in evidence in any action arising out of the death or accident therein reported. [*As am'd by L.* 1910, *ch.* 155.]

Compare § 20-a *ante* (building accidents) and § 87 (factory accidents).

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* See rules and regulations prescribed by Commissioner of Labor, following § 136, *post.*

§ 127. **Notice of dangerous condition.**— If the commissioner of labor, after examination or otherwise, is of the opinion that a mine or tunnel or any thing used in the operation thereof is unsafe, he shall immediately serve a written notice, specifying the defects, upon the owner, agent, manager or lessee, who shall forthwith remedy the same.

§ 128. **Traveling ways.**— In all mines there shall be cut out of or around the sides of every hoisting shaft or driven through the solid strata at the bottom thereof, a traveling way not less than five feet high and three feet wide to enable persons to pass the shaft in going from one side to the other without passing over or under or in the way of the cage or other hoisting apparatus.

§ 129. **Notice of opening new mine, shaft or quarry.**— Whenever a mine or quarry operator has engaged or is about to engage in the development of new industries by the sinking of new shafts, inclines, tunnels or quarries, he shall report to the commissioner of labor, giving the name of the owner or owners, and the location of the property, before the work of excavation shall have reached the depth of twenty-five feet.

§ 130. **Notice of abandonment.**— It shall be the duty of every mine or quarry operator to notify the commissioner of labor of the discontinuance or abandonment of any mine or quarry, when and in the event that such mine or quarry shall be closed permanently or abandoned.

§ 131. **Employment of women and children.**— No child under sixteen years of age shall be employed, permitted or suffered to work in or in connection with any mine or quarry in this state. No female shall be employed, permitted or suffered to work in any mine or quarry in this state.

§ 132. **Underground workings to be equipped with head house and doors.**— Every underground working where the depth exceeds forty feet shall be equipped with a proper head house and trapdoors.

§ 133. **Mines and tunnels to be equipped with wash-rooms.**— Every mine, tunnel or quarry employing over twenty-five men shall maintain a suitably equipped and heated wash-room, which shall be at all times accessible to the men employed.

§ 134. **Method of exploding blasts.**— No blast shall be exploded by an electric current of more than two hundred and fifty volts.

§ 134-a. **Hours of labor.**— All work in the prosecution of which tunnels, caissons or other apparatus or means in which compressed air is employed or used shall be conducted subject to the following restrictions and regulations: When the air pressure in any compartment, caisson, tunnel or place in which men are employed is greater than normal and does not exceed twenty-eight pounds to the square inch, no employee shall be permitted to work or remain therein more than eight hours in any twenty-four hours and shall only be permitted to work under such air pressure provided he shall during such period return to the open air for an interval of at least thirty consecutive minutes, which interval his employer shall provide for. When the air pressure in any such compartment, caisson, tunnel or place shall exceed twenty-eight pounds to the square inch, and shall not equal thirty-six pounds to the square inch, no employee shall be permitted to work or remain

therein more than six hours, such six hours to be divided into two periods of three hours each, with an interval of at least one hour between each such period. When the air pressure in any such compartment, caisson, tunnel or place shall equal thirty-six pounds to the square inch and shall not equal forty-two pounds to the square inch, no such employee shall be permitted to work or remain therein more than four hours in any twenty-four hours, such four hours to be divided into periods of not more than two hours each, with an interval of at least two hours between each such period; when the air pressure in any such compartment, caisson, tunnel or place shall equal forty-two pounds to the square inch and shall not equal forty-six pounds to the square inch, no employee shall be permitted to work or remain therein more than three hours in any twenty-four hours, such three hours to be divided into periods of not more than ninety minutes each, with an interval of at least three hours between each such period; when the air pressure in any such compartment, caisson, tunnel or place shall equal forty-six pounds to the square inch and shall not equal fifty pounds to the square inch, no employee shall be permitted to work or remain therein more than two hours in any twenty-four hours, such two hours to be divided into periods of one hour each, with an interval of not less than four hours between each such period; no employee shall be permitted to work in any compartment, caisson, tunnel or place where the pressure shall exceed fifty pounds to the square inch, except in case of emergency. No person employed in work in compressed air shall be permitted by his employer or by the person in charge of said work to pass from the place in which the work is being done to atmosphere of normal pressure, without passing through an intermediate lock or stage of decompression, which said decompression shall be, where the work is being done in tunnels, at the rate of three pounds every two minutes unless the pressure shall be over thirty-six pounds, in which event the decompression shall be at the rate of one pound per minute; and which said decompression shall be, where the work is being done in caissons, at the following rates:

Where pressure is not over ten pounds per square inch the time of decompression shall be one minute; when pressure is over ten pounds per square inch, but does not exceed fifteen pounds per square inch, the time of decompression shall be two minutes; when pressure is over fifteen pounds per square inch, but does not exceed twenty pounds per square inch, the time of decompression shall be five minutes; when pressure is over twenty pounds per square inch, but does not exceed twenty-five pounds per square inch, the time of decompression shall be ten minutes; when pressure is over twenty-five pounds per square inch but *but does not exceed thirty pounds per square inch, the time of decompression shall be twelve minutes; when pressure is over thirty pounds per square inch, but does not exceed thirty-six pounds per square inch, the time of decompression shall be fifteen minutes; when pressure is over thirty-six pounds per square inch, but does not exceed forty pounds per square inch, the time of decomposition shall be twenty minutes; when pressure is over forty pounds per square inch, but does not exceed fifty pounds per square inch, the time of decompression shall be twenty-five minutes.

* So in original.

All necessary instruments shall be attached to all caissons and air locks showing the actual air pressure to which men employed therein are subjected and which instruments shall be accessible to and in charge of a competent person who shall not be employed more than eight hours in any twenty-four hours. [*Added by L.* 1909, *ch.* 291, *and am'd by L.* 1912, *ch.* 219.]

§ 134-b. **Medical attendance and regulations.**— Any person or corporation carrying on any tunnel, caisson or other work in the prosecution of which men are employed or permitted to work in compressed air, shall, while such men are so employed, also employ and keep in employment, one or more duly qualified persons to act as medical officer or officers who shall be in attendance at all necessary times while such work is in progress and whose duty it shall be to administer and strictly enforce the following:

(a) No person shall be permitted to work in compressed air until after he shall have been examined by such medical officer and reported by such officer to the person in charge thereof as found to be qualified, physically, to engage in such work.

(b) In the event of absence from work, by an employee for ten or more successive days for any cause, he shall not resume work until he shall have been re-examined by the medical officer and his physical condition reported as hitherto provided to be such as to permit him to work in compressed air.

(c) No person known to be addicted to the excessive use of intoxicants shall be permitted to work in compressed air.

(d) No person not having previously worked in compressed air shall be permitted during the first twenty-four hours of his employment to work for longer than one-half of a day period as provided in section one hundred and thirty-four-a and after so working shall be re-examined and not permitted to work in a place where the pressure is in excess of fifteen pounds unless his physical condition be reported by the medical officer as heretofore provided to be such as to qualify him for such work.

(e) After a person has been employed continuously in compressed air for a period of three months he shall be re-examined by the medical officer and he shall not be allowed, permitted or compelled to work until such examination has been made and he has been reported as heretofore provided as physically qualified to engage in compressed air work.

(f) The said medical officer shall at all times keep a complete and full record of examinations made by him, which record shall contain dates on which examinations were made and a clear and full description of the person examined, his age and physical condition at the time examined, also the statement as to the time such person has been engaged in like employment.

(g) Properly heated, lighted and ventilated dressing rooms shall be provided for all employees in compressed air which shall contain lockers and benches and shall be open and accessible to the men during the intermission between shifts. Such rooms shall be provided with baths, with hot and cold water service and a proper and sanitary toilet.

(h) A medical lock shall be established and maintained in connection with all work in compressed air as herein provided. Such lock shall be kept properly heated, lighted and ventilated and shall contain proper medical and surgical equipment. Such lock shall be in charge of a certified trained

nurse selected by the medical officer, who shall be qualified to render temporary relief. [*Added by L.* 1909, *ch.* 291, *and am'd by L.* 1912, *ch.* 219.]

§ 134-c. **Penalties.**— Every person who, or corporation which, shall violate or fail to comply with any of the foregoing provisions shall be guilty of a misdemeanor which shall be punishable by a fine of not less than two hundred and fifty dollars or imprisonment for one year or both. [*Added by L.* 1909, *ch.* 291.]

§ 134-d. All work in the prosecution of which tunnels, caissons or other apparatus or means within which compressed air is employed* shall have at least two air pipes or lines connected at all times and in perfect working condition. [*Added by L.* 1912, *ch.* 219.]

§ 134-e. Wherever electricity is used as lighting apparatus the light supplied for the shaft leading to the caisson or tunnel or other apparatus wherein the men are actually at work shall be supplied from a different wire from the lights which are located at the point wherein the men are actually working under air. [*Added by L.* 1912, *ch.* 219.]

§ 135. Enforcement of article.— The commissioner of labor may serve a written notice upon the owner, agent, manager or lessee of a mine or tunnel requiring him to comply with a specified provision of this article. The commissioner of labor shall begin an action in the supreme court to enforce compliance with such provision; and upon such notice as the court directs an order may be granted, restraining the working of such mine or tunnel during such time as may be therein specified.

§ 136. **Admission of inspectors to mines and tunnels.**— The owner, agent, manager or lessee of a mine or tunnel, at any time, either day or night, shall admit to such mine or tunnel, or any building used in the operation thereof, the commissioner of labor or any qualified person duly authorized by him, for the purpose of making the examinations and inspections necessary for the enforcement of this article, and shall render any necessary assistance for such inspections.

RULES AND REGULATIONS PRESCRIBED BY THE COMMISSIONER OF LABOR. FOR MINES AND QUARRIES.

[*By authority of Sections* 120 *and* 125 *above.*]

Superintendent.— 1. The superintendent of a mine or quarry shall pay particular attention to discipline. All inspections shall be reported to him. He shall see that all the provisions of the law and of these rules are enforced in such mine or quarry. He shall watch all work done by contractors to see that they comply with the law and these rules.

Daily inspection.— 2. The superintendent shall designate a competent person, who shall each day make an inspection of all mining appliances, or quarrying appliances, boilers, engines, magazines, shafts, shafthouses, underground workings, roofs, pillars, timbers, explosives, bell-ropes, telephones, operating tubes, tracks, ladders, etc., and report any defects to the superintendent, in writing, at once.

Boilers.— 3. Superintendents shall require a strict compliance with § 124 of the Labor Law regarding boiler inspection. Boilers shall be examined daily, and any imperfections reported to the master mechanic or superintendent at once.

Timbering.— 4. Timber shall be of ample size and strength and shall be used freely and wherever there is any chance of danger. Only new or properly seasoned timber shall be used, and shall be inspected carefully for rot or other defects before using and periodically thereafter.

* The words "are used" are not in original but should evidently be supplied.

Air.— 5. The use of air instead of steam for drilling in all underground workings is advised.

Signals.— 6. Special attention shall be given to the matter of signals and to keeping the appliances therefor in order. The bell line shall be of ample strength and kept free and clear of all rock and timbers. Shafts of 400 feet or over shall have speaking tubes or telephones from the foot of the shaft to the engine-room. A code of signals shall be posted at different parts of the workings and particularly at the shafthead, together with a notice of a penalty for wrong signals. Wrong signals should be severely punished.

Ladderways.— 7. Ladders shall be strong and intact. In vertical shafts and in deep, pitching inclines there should be landings not more than twenty feet apart, and closely covered except a hole large enough for a man to pass to the next ladder. In inclines, there shall be a hand-rail attached to the ladder, and wherever possible steps should be used with hand-rail attached.

The shaft.— 8. The shafthead shall be covered and guarded so as to prevent accidents from persons falling into it, or from foreign objects dropping down. Automatic doors should, in most cases, be used. The manway shall be around and not across the shafthead. The timbering of the shaft shall be sounded and examined often, as it decays rapidly under certain conditions. Inside shafts, winzes, and shutes shall be carefully guarded. When sinking or continuing a shaft below levels where the work of mining is being carried on, the collars at the lower level shall be covered to prevent objects from falling down the shaft, and such covering should be composed of timber not less than four inches in thickness; and where a cage is used a bonnet shall be placed over it.

Hoisting engineers.— 9. Superintendents shall use extraordinary care to see that their engineers are mentally and physically qualified for their positions. Where persons are lowered into or hoisted out of a mine or quarry, engineers shall be not less than 21, otherwise not less than 18 years of age. They shall never delegate the control of the machinery to any other person, and no one shall interfere with them in their duties.

10. The hoisting engineer shall be in constant attendance at his engine or boilers whenever there are workmen underground.

11. The engineer shall not permit any one to enter or loiter in the engine-room except those required by their positions or duties to do so, and he shall hold no conversation with anyone while the engine is in motion or while his attention should be occupied with signals. A notice to that effect shall be posted on the door of the engine house.

12. The engineer must thoroughly understand the code of signals, which must be delivered in the engine room in a clear and unmistakable manner; and when he receives a signal that men are in the cage or carriage he must work his engine with extra care and only at a moderate rate of speed.

13. The engineer or some other specifically designated and properly qualified employee must keep a careful watch over the engine, boilers, pumps, ropes and winding apparatus, and see that boilers are supplied with water, cleaned and inspected at frequent intervals and that the steam pressure does not exceed the prescribed limit; and he shall frequently try the safety valves and shall not increase the weights thereon. He shall see that the steam and water gauges are always in good order, and if any of the pumps, valves or gauges become deranged, he shall promptly report the facts to his superiors.

Hoisting machinery.— 14. Machinery used for lowering or raising employees into or out of mines, and stairs and ladders for ingress and egress shall be kept in a safe condition and inspected each twenty-four hours by a competent person especially designated for that purpose.

15. The operator, or superintendent shall provide and maintain from the top to the bottom of every shaft where persons are raised or lowered, a telephone or a metal tube suitably adapted to the free passage of sound, through which conversation may be held between persons at the top and bottom of said shaft, and also other means of signaling from the top to the bottom thereof, and shall provide every cage or gear carriage used for hoisting or lowering persons with a proper safety catch and with a sufficient overhead covering to protect them while using it. And he shall see that the flanges, with a clearance of not less than four inches

where the whole of the rope is wound on the drum, are attached to the side of the drum of every machine that is used for lowering and hoisting persons; that adequate brakes are attached to the drum, and that safety gates are so placed at all shafts as to prevent persons from falling in.

16. The main governing chain attached to the socket of the wire rope shall be made of the best quality of iron and shall be properly tested; and the bridle chain shall be attached to the hoisting rope above the socket from the top cross-piece of the carriage or cage so that no single chain shall be used for lowering or hoisting persons.

17. No greater number of persons shall be lowered or hoisted at any one time than may be allowed by the Commissioner of Labor; and notice of the maximum number allowed to be lowered or hoisted at any one time shall be kept posted in a conspicuous place at the top of the shaft.

Dangerous machinery.— 18. All machinery about mines or quarries, in connection with which accidents are liable to occur, shall be suitably guarded or railed off.

Fire.— 19. All oil, waste, candles, etc., shall be stored at a safe distance from the boiler-house, engine-room and shafthouse, and a quantity of water shall be stored at such place to guard against fire. All shafthouses shall have ample fire protection, and the appliances shall be kept in condition for instant use. All mining plants using steam should have a hose attached to the injector or feed pipe for use in case of fire.

Storing explosives.— 20. All explosives shall be stored in a magazine provided for that purpose, and located far enough from the working-shaft, slope, tunnel or quarry, boiler-house or engine-room, so that in case the whole quantity should be exploded, there would be no danger, and all explosives in excess of what are needed for one shift shall be kept in the magazine. Such magazine should be fireproof, and so constructed that a modern rifle or pistol bullet cannot penetrate it. The thawing should be done by the hot water or steam bath method; the use of dry heat is absolutely prohibited. A receptacle for carrying explosives shall be provided. Exploders and powder shall not be kept in the same room. A suitable place separated from mine or quarry, boilers or engine-room shall be provided for preparing charges. One man shall have full charge of the magazine. (See further the special rules for handling dynamite.)

Blasting.— 21. All blasting shall be done by one man and his helper, designated by the superintendent for that purpose. After blasting no one else shall be allowed in that part of the mine or quarry until the blaster has made a personal examination and pronounced "all over." If a blast misses fire, no one except the blaster and his helper shall be allowed in that part of the mine or quarry less than three hours thereafter unless and until the blaster has made a personal examination and pronounced "all safe." No person shall use or handle any explosives who is addicted to the use of intoxicants. All tamping of high explosives shall be done with a wooden bar. Timely and sufficient warning shall be given when a blast is about to be fired.

Posting of law, etc.— A copy of Article IX of the Labor Law and of all rules relating to health and safety of employees in mines and quarries, prescribed by the Commissioner of Labor, shall be kept posted in the works in such manner as to be available to all employees.

FOR STORING, KEEPING, MOVING, THAWING, CHARGING AND FIRING DYNAMITE.

Storing and keeping.— 1. Dynamite must be stored in a building separate and isolated from other buildings and from traffic. Caps and electric exploders and fuses must never be stored in the *same* building with the powder, but must always be kept apart until needed for preparing the charge.

Moving.— 2. When dynamite is hauled in wagons, railway trains, mine cars or similar vehicles, the *greatest* care must be exercised, and neither percussion caps, exploders, fulminators, friction matches nor any other article of like nature shall be loaded or carried in the same wagon, car or vehicle.

Thawing powder.— 3. All nitro-glycerine compounds freeze and become hard at about 42 degrees Fahrenheit, in which condition they will not readily explode. When large quantities are to be used, a separate building for thawing should be fitted with a small steam radiator. Use only exhaust steam for heating it, if

possible keeping the temperature of the room at about 80 degrees Fahrenheit. In the part of the room farthest from the radiator, place the powder on racks to thaw. When but small quantities need to be thawed, a thawing kettle may be used, being two water-tight kettles (one smaller and placed inside the other), the cartridges placed in the smaller kettle, the space between the two kettles filled with hot water of from 120 to 130 degrees Fahrenheit, and the kettle fitted with a cover to retain the heat. Never place the kettle over the fire to heat. When more hot water is required, empty and fill again with hot water. Never attempt to thaw the powder by placing it in hot water or exposing it to the direct action of steam.

Precautions.— 4. Powder must *never* be placed on, in or near hot steam pipes, steam boilers, a hot stove, nor any hot metal, nor exposed to radiated heat from a fire or hot stove. Never roast, toast or bake it in any way, nor take it near a blacksmith forge. Never allow *smoking* or fire of any description, nor leave any loose caps or fuse near it.

Preparing the charge.— 5. Cut a piece of safety fuse to the right length and carefully insert the fresh cut end in a blasting cap. See that the cap is free from any particle of sawdust before inserting the fuse. Press the fuse gently into the cap as far as it will go. Crimp the open end of the cap tightly around the fuse with a pair of cap-nippers, but under no condition disturb the fulminate or filling in the cap. Then open one end of the cartridge carefully, and with a sharpened lead pencil or pointed wooden stick, make a hole in the powder, insert the capped end of the fuse, being careful to see that at least one-fourth of an inch of the cap remains out of the powder. Then draw the paper closely about the fuse and tie in with a strong cord.

Charging the drill-hole.— 6. Having properly prepared the cartridges (being sure that none are frozen) push them gently to the bottom of the drilled hole with a wooden stick, putting the capped cartridge on top.

Tamping.— 7. Having placed the required quantity of powder in the hole, cover with six or eight inches of loose tamping, press it down firmly with a *wooden* stick, after which the hole may be tamped to the top, ramming the tamping down hard. Never use an iron or metal bar. Wood is always sufficient.

Misfire.— 8. In case of misfires, never attempt to remove the tamping or draw the charge; always drill a new hole.

FOR THE DAILY GUIDANCE OF EMPLOYEES.

1. No employee shall ride on any loaded skip, car, cage or bucket nor walk up or down any slope, or shaft, while any skip, car, cage or bucket is above.

2. The pit boss shall carefully examine the hanging wall of all slopes, levels and working chambers daily.

3. Machine runners shall carefully examine and sound hanging wall at face working, and remove all loose rock or ore before proceeding to drill.

4. No employee shall handle any explosives nor do any blasting except the person or persons designated for that special purpose by the superintendent.

5. After blasting no one except the blaster or blasters shall be allowed in the part of the mine where such blast has been fired, until the blaster has made a personal examination, and pronounced all safe.

6. No iron or steel bar, unless tipped with six inches of copper or other soft metal, shall be used for tamping any explosive. When tamping dynamite, or other high explosives, wood only shall be used.

7. The mine superintendent or person designated by him shall examine daily all mining appliances and see that they are in safe condition.

8. Whenever a shot misses fire no one shall be allowed to return to that part of the mine or quarry in less than three hours, unless and until the blaster after a personal examination shall pronounce all safe.

9. No person addicted to the use of intoxicating drink shall have charge of any explosives, boiler, engine or hoist, nor shall any person be allowed in any part of the mine or quarry while under the influence of liquor.

FOR THE CONSTRUCTION OF TUNNELS.

1. Whenever work in the construction of a tunnel or section thereof is in progress, there shall always be present some one competent person, representing

the person, firm or corporation carrying on the work or the contractor for the particular section or subdivision thereof, who shall be in all respects responsible for full compliance therein with all provisions of law, and who for that purpose shall have authority to require all persons employed on the work to comply with such provisions.

2. In every tunnel or section thereof while under construction there shall be a competent person designated to make a regular inspection at least once every working day and to examine all engines, boilers, steam pipes, drills, air pipes, air gauges, air locks, dynamos, electric wiring, signaling apparatus, brakes, cages, buckets, hoists, cables, ropes, chains, ladders, ways, tracks, sides, roofs, timbers, supports and all apparatus and appliances; and he shall immediately upon discovery report any defect, in writing, to the person present in charge.

3. The person present in charge of the work in any tunnel or section thereof shall always be authorized and instructed in case of accidents to take all proper measures for the relief of all workmen injured therein. And he shall immediately report every such accident to the Commissioner of Labor in accordance with § 126 of the Labor Law.

4. Wherever possible all explosives shall be stored in a fire-proof magazine at a safe distance from the tunnel, its engines, power plant and machinery and from other buildings and traffic, and a place separate from the place of storage and with proper apparatus shall be provided for thawing dynamite or other high explosives if thawing be necessary. Where compliance with any of these provisions be impossible, only the safest and most approved manner and methods of handling and storing such explosives practicable under the circumstances, may be used instead; and then only under the regular direction and supervision of some competent engineer or superintendent of experience who shall be held responsible therefor. And the quantity of such high explosives shall always be limited according to law and local ordinances and the strictest demands of safety. In no tunnel shall more explosives be stored than are required for a single blast or one round of holes in the working face; unless the chief engineer shall certify in writing that for special and peculiar reasons it is safer or absolutely necessary to do otherwise, which certificate shall prescribe the limits to the amount of explosives to be allowed in the tunnel at any one time and shall be kept posted in a conspicuous place with the other rules hereinafter mentioned.

5. Only such persons as are selected and regularly designated by a competent engineer or superintendent of experience shall handle or transport the dynamite or other high explosives used in the construction of any tunnel; and extraordinary care shall be exercised in selecting therefor only such persons as are competent, careful and of good habits as to the use of liquor, and to see that they store, prepare, handle and transport all such explosives in the safest and most careful manner.

6. Only such persons as have been selected and regularly designated therefor by a competent engineer or superintendent of experience shall be allowed to prepare or set off blasts in any tunnel under construction, and extraordinary care shall be exercised in selecting therefor only such persons as are competent, experienced and of good habits as to the use of liquor. The person present in charge of the work in any tunnel or section thereof shall see to it that whenever blasting is in progress there is always *one* "blaster" in full charge in each section or in each separated heading therein, that his fellow workmen properly obey his orders and directions, that he personally supervises the fixing of all charges, the discharge of all blasts, etc., and that he does so carefully, in the safest manner and in accordance with the provisions of § 125 of the Labor Law.

7. Any code of signals in use in a tunnel under construction shall be explained in writing, and copies thereof, in such languages as may be necessary to be understood by all persons affected thereby, shall be kept posted in a conspicuous place near each entrance to such tunnel and in such other places as may be necessary to bring them to the attention of all such persons.

8. Copies of §§ 123, 125, 134-a and 134-b of the Labor Law, of the substance of the foregoing rules and of the working rules of the particular tunnel, in such languages as may be necessary to be understood by all persons working therein, shall be kept posted in a conspicuous place near each entrance to every tunnel.

FOR WORK OF EXCAVATION AND CONSTRUCTION OF TUNNELS CARRIED ON IN COMPRESSED AIR.— SUPPLEMENTING §§ 134-a and 134-b.

LOCKS.

Where practicable each bulkhead in the tunnel shall have at least two locks in perfect working condition.

The man lock shall be large enough so that those using it are not compelled to be in a cramped position.

The emergency lock shall be large enough to hold an entire heading shift.

Every lock must be lighted by electricity and shall contain a pressure gauge and a timepiece, and shall have a glass "bull's-eye" in each door or in each end.

Valves must be so arranged that the locks can be operated both from within and from without.

Each man lock shall be in charge of a competent lock tender.

LIGHT, SANITATION AND VENTILATION IN AIR CHAMBER.

All lighting in compressed air chambers shall be by electricity only, except in cases of emergency.

Absolutely no nuisance shall be tolerated in the air chamber, and smoking shall be strictly prohibited.

No animals for hauling shall be permitted in the air chambers.

An air-supply pipe shall be carried as near to the face as may be practicable and necessary. The air shall be analyzed at least once in every forty-eight hours, and the percentage of CO_2 shall not be greater than 1/10 of one per cent above that of the air being compressed.

The exhaust valves shall be operated at certain intervals, especially after a blast, and men shall not be required to resume work after a blast until the gas and smoke have cleared sufficiently.

Persons in the air chamber must be able to communicate with the power-house on the surface by means of suitable devices at all times.

GAUGES.

In addition to the gauges in the locks, an accurate gauge shall be maintained on the outer side of each bulkhead. These gauges shall be accessible at all times and shall be kept in accurate working order.

SAFETY SCREENS.

Where practicable, safety screens shall be installed after the heading has proceeded beyond the bulkhead line.

GENERAL.

A record of all men working in the air chambers shall be kept by a special man who shall remain outside the lock near the entrance. This record shall show the period of stay in the air chamber of each person and the time taken for decompression.

A liberal supply of hot coffee and sugar shall be supplied to men working in compressed air. Coffee must be heated by means other than direct steam.

ARTICLE 10.

Bureau of Mediation and Arbitration.

Section 140. Chief mediator.
141. Mediation and investigation.
142. Board of mediation and arbitration.
143. Arbitration by the board.
144. Decisions of board.
145. Annual report.
146. Submission of controversies to local arbitrators.
147. Consent; oath; powers of arbitrators.
148. Decision of arbitrators.

§ 140. **Chief mediator.**— There shall continue to be a bureau of mediation and arbitration. The second deputy commissioner of labor shall be the chief

mediator of the state and in immediate charge of this bureau, but subject to the supervision and direction of the commissioner of labor.

Cf. § 42, *ante.*

§ 141. Mediation and investigation.— Whenever a strike or lockout occurs or is seriously threatened an officer or agent of the bureau of mediation and arbitration shall, if practicable, proceed promptly to the locality thereof and endeavor by mediation to effect an amicable settlement of the controversy. If the commissioner of labor deems it advisable the board of mediation and arbitration may proceed to the locality and inquire into the cause thereof, and for that purpose shall have all the powers conferred upon it in the case of a controversy submitted to it for arbitration.

§ 142. Board of mediation and arbitration.— There shall continue to be a state board of mediation and arbitration, which shall consist of the chief mediator and two other officers of the department of labor to be from time to time designated by the commissioner of labor. The chief mediator when present shall be the chairman of the board. Two members of such board shall constitute a quorum for the transaction of business, and may hold meetings at any time or place within the state. Examinations or investigations ordered by the board may be held and taken by and before any of their number, if so directed, but a decision rendered in such a case shall not be deemed conclusive until approved by the board.

§ 143. Arbitration by the board.—A grievance or dispute between an employer and his employees may be submitted to the board of arbitration and mediation for their determination and settlement. Such submission shall be in writing, and contain a statement in detail of the grievance or dispute and the cause thereof, and also an agreement to abide the determination of the board, and during the investigation to continue in business or at work, without a lockout or strike. Upon such submission, the board shall examine the matter in controversy. For the purpose of such inquiry they may subpœna witnesses, compel their attendance, take and hear testimony, and call for and examine books, papers and documents of any parties to the controversy. Subpœnas shall be issued by the chairman under the seal of the department of labor. Witnesses shall be allowed the same fees as in courts of record. The decision of the board must be rendered within ten days after the completion of the investigation.

§ 144. Decisions of board.— Within ten days after the completion of every arbitration, the board or a majority thereof shall render a decision, stating such details as will clearly show the nature of the controversy and the points disposed of by them, and make a written report of their findings of fact and of their recommendations to each party of the controversy. Every decision and report shall be filed in the office of the board and a copy thereof served upon each party to the controversy.

§ 145. Annual report.— The commissioner of labor shall make an annual report to the legislature of the operations of this bureau.

§ 146. Submission of controversies to local arbitrators.— A grievance or dispute between an employer and his employees may be submitted to a board of arbitrators, consisting of three persons, for hearing and settlement. When the employees concerned are members in good standing of a labor organiza-

tion, one arbitrator may be appointed by such organization and one by the employer. The two so designated shall appoint a third, who shall be chairman of the board. If such employees are not members of a labor organization, a majority thereof at a meeting duly called for that purpose, may designate one arbitrator for such board.

§ 147. Consent; oath; powers of arbitrators.— Before entering upon his duties, each arbitrator so selected shall sign a consent to act and take and subscribe an oath to faithfully and impartially discharge his duties as such arbitrator, which consent and oath shall be filed in the clerk's office of the county or counties where the controversy arose. When such board is ready for the transaction of business, it shall select one of its members to act as secretary, and notice of the time and place of hearing shall be given to the parties to the controversy. The board may, through its chairman, subpœna witnesses, compel their attendance and take and hear testimony. The board may make and enforce rules for its government and the transaction of the business before it, and fix its sessions and adjournments.

§ 148. Decision of arbitrators.— The board shall, within ten days after the close of the hearing, render a written decision signed by them giving such details as clearly show the nature of the controversy and the questions decided by them. One copy of the decision shall be filed in the office of the clerk of the county or counties where the controversy arose and one copy shall be transmitted to the bureau of mediation and arbitration.

ARTICLE 10-a.

Bureau of Industries and Immigration.

[*Added by L.* 1910, *ch.* 514.]

Section 151. Bureau of industries and immigration.
152. Special investigators.
153. General powers and duties.
154. Proceedings before the commissioner of labor.
155. Registration and reports of employment agencies.
156. The licensing and regulation of immigrant lodging places.
156-a. Reports.

§ 151. Bureau of industries and immigration.— There shall be a bureau of industries and immigration, which shall be under the immediate charge of a chief investigator, but subject to the supervision and direction of the commissioner of labor.

Cf. § 42, *ante.*

§ 152. Special investigators.— The commissioner of labor may appoint from time to time such number of special investigators and such other assistants as may be necessary to carry into effect the powers of the said bureau herein defined, who may be removed by him at any time. The special investigators may be divided into two grades. Each special investigator of the first grade shall receive an annual salary of fifteen hundred dollars, and each of the second grade an annual salary of twelve hundred dollars. [*As am'd by L.* 1912, *ch.* 543.]

§. 153. General powers and duties.— 1. The commissioner of labor shall have the power to make full inquiry, examination and investigation into

the condition, welfare and industrial opportunities of all aliens arriving and being within the state. He shall also have power to collect information with respect to the need and demand for labor by the several agricultural, industrial and other productive activities, including public works throughout the state; to gather information with respect to the supply of labor afforded by such aliens as shall from time to time arrive or be within the state; to ascertain the occupations for which such aliens shall be best adapted, and to bring about intercommunication between them and the several activities requiring labor which will best promote their respective needs; to investigate and determine the genuineness of any application for labor that may be received and the treatment accorded to those for whom employment shall be secured; to co-operate with the employment and immigration bureaus conducted under authority of the federal government, or by the government of any other state, and with public and philanthropic agencies designed to aid in the distribution and employment of labor; and to devise and carry out such other suitable methods as will tend to prevent or relieve congestion and obviate unemployment.

2. The commissioner of labor shall procure with the consent of the federal authorities complete lists giving the names, ages, and destination within the state of all alien children of school age, and such other facts as will tend to identify them and shall forthwith deliver copies of such lists to the commissioner of education or the several boards of education and school boards in the respective localities within the state to which said children shall be destined, to aid in the enforcement of the provisions of the education law relative to the compulsory attendance at school of children of school age.

3. The commissioner of labor shall further co-operate with the commissioner of education and with the several boards of education and school commissioners in the state to ascertain the necessity for and the extent to which instruction should be imparted to aliens within the state; to devise methods for the proper instruction of adult and minor aliens in the English language and other subjects, and in respect to the duties and rights of citizenship and the fundamental principles of the American system of government; and may establish and supervise classes and otherwise further their education.

4. The commissioner of labor may enter and inspect all labor camps within the state, and any camp which he may have reasonable cause to believe is a labor camp; and shall inspect all employment and contract labor agencies dealing with aliens, or whenever he may have reasonable cause to believe that such employment or contract labor agencies deal with aliens; or who secure or negotiate contracts for their employment within the state; shall inspect all immigrant lodging places or all places where he has reasonable cause to believe that aliens are received, lodged, boarded or harbored; shall co-operate with other public authorities, to enforce all laws applicable to private bankers dealing with aliens and laborers; secure information with respect to such aliens who shall be in prisons, almshouses and insane asylums of the state, and who shall be deportable under the laws of the United States, and co-operate with the federal authorities and with such officials of the state having jurisdiction over such criminals, paupers

and insane aliens who shall be confined as aforesaid, so as to facilitate the deportation of such persons as shall come within the provisions of the aforesaid laws of the United States, relating to deportation; shall investigate and inspect institutions established for the temperary shelter and care of aliens, and such philanthropic societies as shall be organized for the purpose of securing employment for or aiding in the distribution of aliens, and the methods by which they are conducted.

5. The commissioner of labor shall investigate conditions prevailing at the various places where aliens are landed within this state, and at the several docks, ferries, railway stations and on trains and boats therein, and in co-operation with the proper authorities, afford them protection against frauds, crimes and exploitation; shall investigate any and all complaints with respect to frauds, extortion, incompetency and improper practices by notaries public, interpreters and other public officials, or by any other person or by any corporation, whether public or private, and present to the proper authorities the results of such investigation for action thereon; shall investigate and study the general social conditions of aliens within this state, for the purpose of inducing remedial action by the various agencies of the state possessing the requisite jurisdiction; and shall generally, in conjunction with existing public and private agencies, consider and devise means to promote the welfare of the state. [*As am'd by L.* 1912, *ch.* 543.]

§ 154. **Proceedings before the commissioner of labor.**— Any investigation, inquiry or hearing which the commissioner of labor has power to undertake or to hold may by special authorization from the commissioner of labor, be undertaken or held by or before the chief investigator, or any official whom he may designate, and any decision rendered on such investigation, inquiry or hearing, when approved, and confirmed by the commissioner and ordered filed in his office, shall be and be deemed to be the order of the commissioner. All hearings before the commissioner or chief investigator or official duly designated therefor shall be governed by rules to be adopted and prescribed by the commissioner. The commissioner or chief investigator or official duly designated therefor shall not be bound by technical rules of evidence, and shall have the power to subpoena any witness or any person, and to examine all books, contracts, records and documents of any person or corporation and by subpoena duces tecum to compel production thereof, and to effect as far as practicable an amicable settlement or adjustment of any such complaint. Such subpoena shall be issued by the commissioner or chief investigator under the seal of the department of labor. No person shall be excused from testifying or from producing any books or papers on any investigation or inquiry by or upon any hearing before the commissioner or chief investigator, or official duly designated thereof,* when ordered to do so, upon the ground that the testimony or evidence, books or documents required of him may tend to incriminate him or subject him to a penalty or forfeiture, but no person shall be prosecuted, punished or subjected to any penalty or forfeiture, for or on account of any act, transaction, matter or thing, concerning which he shall under oath have testified or produced documentary evidence; provided, however, that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony. [*As am'd by L.* 1912, *ch.* 543.]

* So in original.

§ 155. **Registration and reports of employment agencies.**— The term "employment agency" as used in this act shall include any person, firm, corporation or association regularly engaging in the business of negotiating labor contracts or of receiving applications for help or labor, or for places or positions, excepting such as shall conduct agencies exclusively for procuring employment for teachers, for incumbents of technical, clerical or executive positions, for vaudeville or theatrical performers, musicians or nurses, and also excepting bureaus conducted by registered agricultural or medical institutions and, excepting also departments maintained by persons, firms, corporations or associations for the purpose of securing help for themselves where no fee is charged the applicant for employment. All employment agencies other than those herein excepted shall on or before the first day of October, nineteen hundred and ten, and annually thereafter, file with the commissioner of labor a statement containing the name of the person, firm, corporation or association conducting such agency, the street and number of the place where the same shall be conducted and showing whether said agency is licensed or unlicensed, and if licensed, specifying the date and duration of the license, by whom granted and the number thereof. Such statements shall be registered by the commissioner. Every such employment agency shall keep in the office thereof a full record of the country of the birth of those for whom places or positions are secured, their length of residence in this country, and the name and address of the person, firm or corporation to whom the persons for whom such places or positions are secured shall be sent, the occupation for which employment shall be secured, and the compensation to be paid to the person employed. The books and records of every such agency shall at all reasonable hours be subject to examination by the commissioner of labor. Any person who shall fail to register with the commissioner of labor or to keep books or records shall be guilty of a misdemeanor and shall be punishable for the first offense by a fine of not less than ten dollars, nor more than twenty-five dollars, and for every subsequent offense by a fine of not less than twenty-five dollars, nor more than one hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

§ 156. **The licensing and regulation of immigrant lodging places.**

1. No person shall hereafter, directly or indirectly, own, conduct or keep an immigrant lodging place without having first obtained from the commissioner of labor a license therefor. Before receiving such license the applicant therefor shall file with the commissioner of labor, in such form as he may prescribe, a statement certified by such applicant, or if said applicant is a corporation, by one of its officers, designating the location of the immigrant lodging place for which a license shall be requested, and specifying the number of boarders or lodgers received by said applicant at any one time during the year preceding such application at the place for which a license is sought, or if no business shall have previously been conducted at said place the maximum number of boarders or lodgers which it will accommodate. With such application there shall be presented to the commissioner of labor proof of the good moral character of the applicant, and in case such applicant is a corporation, of its officers, and in addition

thereto *[, in the discretion of the commissioner of labor,] a bond to the people of the state of New York, with two or more sureties or of a surety company approved by the commissioner of labor, conditioned that the obligor shall obey all laws, rules and regulations applicable to such immigrant lodging place prescribed by any lawful authority, and that such obligor shall discharge all obligations and pay all damages, loss and injuries which shall accrue to any person or persons dealing with such licensee, by reason of any contract or other obligation of such licensee, or resulting from any fraud or deceit, conversion of property, oppression, excessive charges, or other wrongful act of said licensee or of his servants or agents in connection with the business so licensed. Where the number of boarders or lodgers specified in said application shall not exceed ten persons the penalty of said bond shall be one hundred dollars, where it shall be more than ten and less than fifty persons it shall be two hundred and fifty dollars, and where the number shall be more than fifty it shall be five hundred dollars. Any person aggrieved may bring an action for the enforcement of such bond in any court of competent jurisdiction. On the approval of the application for said license and of the bond filed therewith the commissioner of labor shall issue a license authorizing the applicant to own, conduct and manage an immigrant lodging place at the place designated in the application and to be specified in the license certificate. For such license the applicant shall pay to the commissioner of labor a fee of five dollars where the number of boarders or lodgers stated in the application does not exceed ten, a fee of ten dollars where such number exceeds ten and does not exceed fifty, and a fee of twenty-five dollars where such number exceeds fifty. Such license shall not be transferable without the consent of the commissioner of labor, nor authorize the conduct of an immigrant lodging place on any other premises than those described in the application. Such license shall be renewable annually on the payment of a fee based on the maximum number of boarders and lodgers received by the licensee at the place licensed during the preceding year, as shown in a sworn statement filed by such applicant in such form as the commissioner of labor shall prescribe. The commissioner of labor shall keep a book or books in which the licenses granted and the bonds filed shall be entered in alphabetical order, together with a statement of the date of the issuance of the license, the name or names of the principals, the place where the business licensed is to be transacted, the names of the sureties upon the bond filed and the amount of the license fee paid by the licensee.

2. Every licensee shall keep conspicuously posted in the public rooms and in each bedroom of the place licensed a statement printed in the English language and in the language understood by the majority of the patrons of said place, specifying the rate of charges by the day and week for lodging, for meals supplied, for the transportation of passengers and baggage, the services of guides, and other service rendered to such patrons. No sum shall be charged or received by or for the licensee in excess of such posted rates for any service rendered, and payment shall not be enforceable for any

* This phrase was inserted by L. 1912, ch. 337, approved April 15, but was not included in the amendment made by L. 1912, ch. 543, approved April 19. According to the general rule of construction that the latest amendatory act supersedes prior ones, the courts would probably hold that the above phrase is not a part of the law.

charge in excess of such rates. A copy of the rates so posted shall be filed by the licensee with the commissioner of labor, and no increased rate shall be charged or received until a revised schedule showing such increase shall have been filed with the commissioner of labor. Every such licensee shall likewise file with the commissioner of labor a list specifying the names and addresses of every person employed by such licensee as a runner, guide or other employee, and showing whether such person is employed at a salary or on commission.

3. A license granted hereunder shall be revocable by the commissioner of labor on notice to the licensee and for cause shown.

4. The term immigrant lodging place as used in this section includes any place, boarding house, lodging house, inn or hotel where immigrants or emigrants while in transit, or aliens are received, lodged, boarded or harbored, which shall not include any place maintained or conducted by a charitable, philanthropic or religious society, association or corporation. Nothing contained herein shall be held to apply to temporary sleeping quarters in labor or construction camps.

5. Any person or any officer of a corporation owning, conducting or managing an immigrant lodging place without having obtained from the commissioner of labor a license therefor, or who shall carry on such business after the revocation of a license to carry on such business, or who shall violate any of the provisions of this section, shall be guilty of a misdemeanor.

6. The license fees collected hereunder shall be paid to the comptroller and shall constitute a fund to be used in the joint discretion of the comptroller and commissioner of labor for the expenses necessary for carrying out the provisions of this section. [*Added by L.* 1911, *ch.* 845; *am'd and renumbered by L.* 1912, *ch.* 543.]

§ 156-a. **Reports.**— The commissioner of labor shall make an annual report to the legislature of the operation of this bureau. [*Originally* § 156; *renumbered by L.* 1912, *ch.* 543.]

ARTICLE 11.

Employment of Women and Children in Mercantile Establishments.

[NOTE.— *Until October* 1, 1908, *the enforcement of this article everywhere was in the hands of local boards of health. On October* 1, 1908, *enforcement in cities of the first class was transferred to the Department of Labor; elsewhere enforcement remains as before* (§ 172.) *Non-compliance with its provisions is a misdemeanor* (*Penal Law*, § 1275, *subd.* 7, *post*).]

Section 160. Application of article.
161. Hours of labor of minors.
161-a. Hours of labor of messengers.
162. Employment of children.
163. Employment certificate; how issued.
164. Contents of certificate.
165. School record, what to contain.
167. Registry of children employed.
168. Wash-rooms and water-closets.
169. Lunch rooms.
170. Seats for women in mercantile establishments.
171. Employment of women and children in basements.
172. Enforcement of article.
173. Copy of article to be posted.

§ 160. **Application of article.**— The provisions of this article shall apply to all villages and cities which at the last preceding state enumeration had a population of three thousand or more.

§ 161. **Hours of labor of minors.**— No child under the age of sixteen years shall be employed, permitted or suffered to work in or in connection with any mercantile establishment, business office, or telegraph office, restaurant, hotel, apartment-house, theater or other place of amusement, bowling alley, barber shop, shoe-polishing establishment, or in the distribution or transmission of merchandise, articles or messages, or in the distribution or sale of articles more than six days or fifty-four hours in any one week, or more than nine hours in any one day, or before eight o'clock in the morning or after seven o'clock in the evening of any day. The foregoing provision shall not apply to any employment prohibited or regulated by section four hundred and eighty-five of the penal law. No female employee between sixteen and twenty-one years of age shall be required, permitted or suffered to work in or in connection with any mercantile establishment more than sixty hours in any one week; or more than ten hours in any one day, unless for the purpose of making a shorter work day of some one day of the week; or before seven o'clock in the morning or after ten o'clock in the evening of any day. This section does not apply to the employment of persons sixteen years of age or upward between the eighteenth day of December and the following twenty-fourth day of December, both inclusive. Not less than forty-five minutes shall be allowed for the noonday meal of the employees of any such establisment. Whenever any employee is employed or permitted to work after seven o'clock in the evening, such employee shall be allowed at least twenty minutes to obtain lunch or supper between five and seven o'clock in the evening. [*As am'd by L.* 1910, *ch.* 387, *and by L.* 1911, *ch.* 866.]

Compare § 77, *ante.*

§ 161-a. **Hours of labor of messengers.**— In cities of the first or second class no person under the age of twenty-one years shall be employed or permitted to work as a messenger for a telegraph or messenger company in the distribution, transmission or delivery of goods or messages before five o'clock in the morning or after ten o'clock in the evening of any day. [*Added by L.* 1910, *ch.* 342.]

Compare Article 15, *post*, as to employment of children in street trades. See also Penal Law, § 488, under Child Labor, *post.*

§ 162. **Employment of children.**— No child under the age of fourteen years shall be employed or permitted to work in or in connection with any mercantile or other business or establishment specified in the preceding section. No child under the age of sixteen years shall be so employed or permitted to work unless an employment certificate, issued as provided in this article, shall have been theretofore filed in the office of the employer at the place of employment of such child. [*As am'd by L.* 1909, *ch.* 293, *and by L.* 1911, *ch.* 866.]

Compare § 70, *ante*, and Education Law, §§ 626, 628, *post.*

Section 488 of the Penal Law makes it a misdemeanor to send a messenger boy into disorderly houses, unlicensed saloons, etc.

§ 163. **Employment certificate; how issued.**— Such certificate shall be issued by the commissioner of health or the executive officer of the board or department of health of the city, town or village where such child resides or is to be employed, or by such officer thereof as may be designated by such board, department or commissioner for that purpose, upon the application of the parent, guardian or custodian of the child desiring such employment. Such officer shall not issue such certificate until he has received, examined, approved and filed the following papers duly executed, viz.: The school record of such child properly filled out and signed as provided in this article; also, evidence of age showing that the child is fourteen years old or upwards, which shall consist of the evidence thereof provided in one of the following subdivisions of this section and which shall be required in the order herein designated as follows:

(a) Birth certificate.— A duly attested transcript of the birth certificate filed according to law with a registrar of vital statistics or other officer charged with the duty of recording births which certificate shall be conclusive evidence of the age of such child.

(b) Certificate of graduation.—A certificate of graduation duly issued to such child showing that such child is a graduate of a public school of the state of New York or elsewhere, having a course of not less than eight years, or of a school in the state of New York other than a public school, having a substantially equivalent course of study of not less than eight years' duration, in which a record of the attendance of such child has been kept as required by article twenty of the education law, provided that the record of such school shows such child to be at least fourteen years of age.

(c) Passport or baptismal certificate.— A passport or a duly attested transcript of a certificate of baptism showing the date of birth and place of baptism of such child.

(d) Other documentary evidence.— In case it shall appear to the satisfaction of the officer to whom application is made, as herein provided, for an employment certificate, that a child for whom such certificate is requested and who has presented the school record, is in fact over fourteen years of age, and that satisfactory documentary evidence of age can be produced, which does not fall within any of the provisions of the preceding subdivisions of this section, and that none of the papers mentioned in said subdivisions can be produced, then and not otherwise he shall present to the board of health of which he is an officer or agent, for its action thereon, a statement signed by him showing such facts together with such affidavits or papers as may have been produced before him constituting such evidence of the age of such child, and the board of health, at a regular meeting thereof, may then, by resolution, provide that such evidence of age shall be fully entered on the minutes of such board, and shall be received as sufficient evidence of the age of such child for the purpose of this section.

(e) Physicians' certificates.— In cities of the first class only, in case application for the issuance of an employment certificate shall be made to such officer by a child's parent, guardian or custodian who alleges his inability to produce any of the evidence of age specified in the preceding subdivisions of this section, and if the child is apparently at least fourteen years of age, such officer may receive and file an application signed by the parent, guardian

or custodian of such child for physicians' certificates. Such application shall contain the alleged age, place and date of birth, and present residence of such child, together with such further facts as may be of assistance in determining the age of such child. Such application shall be filed for not less than ninety days after date of such application for such physicians' certificates, for an examination to be made of the statements contained therein, and in case no facts appear within such period or by such examination tending to discredit or contradict any material statement of such application, then and not otherwise the officer may direct such child to appear thereafter for physical examination before two physicians officially designated by the board of health, and in case such physicians shall certify in writing that they have separately examined such child and that in their opinion such child is at least fourteen years of age such officer shall accept such certificates as sufficient proof of the age of such child for the purposes of this section. In case the opinions of such physicians do not concur, the child shall be examined by a third physician and the concurring opinions shall be conclusive for the purpose of this section as to the age of such child.

Such officer shall require the evidence of age specified in subdivision (a) in preference to that specified in any subsequent subdivision and shall not accept the evidence of age permitted by any subsequent subdivision unless he shall receive and file in addition thereto an affidavit of the parent showing that no evidence of age specified in any preceding subdivision or subdivisions of this section can be produced. Such affidavit shall contain the age, place and date of birth, and present residence of such child, which affidavit must be taken before the officer issuing the employment certificate, who is hereby authorized and required to administer such oath and who shall not demand or receive a fee therefor. Such employment certificate shall not be issued until such child shall further have personally appeared before and been examined by the officer issuing the certificate, and until such officer shall, after making such examination, sign and file in his office a statement that the child can read and legibly write simple sentences in the English language and that in his opinion the child is fourteen years of age or upwards and has reached the normal development of a child of its age, and is in sound health and is physically able to perform the work which it intends to do. In doubtful cases such physical fitness shall be determined by a medical officer of the board or department of health. Every such employment certificate shall be signed in the presence of the officer issuing the same, by the child in whose name it is issued.

Compare § 71, *ante*, and note. False statement in relation to the certificate or application therefor is specifically denounced as a misdemeanor by amendment to the Penal Law, § 1275, subd. 8.

§ 164. Contents of certificate.— Such certificate shall state the date and place of birth of the child, and describe the color of hair and eyes and the height and weight and any distinguishing facial marks of such child, and that the papers required by the preceding section have been duly examined, approved and filed and that the child named in such certificate has appeared before the officer signing the certificate and been examined.

Identical with § 72, *ante*.

§ 165. School record, what to contain.— The school record required by this article shall be signed by the principal or chief executive officer of the school

which such child has attended and shall be furnished on demand to a child entitled thereto or to the board, department or commissioner of health. It shall contain a statement certifying that the child has regularly attended the public schools or schools equivalent thereto or parochial schools for not less than one hundred and thirty days during the twelve months next preceding his fourteenth birthday, or during the twelve months next preceding his application for such school record, and is able to read and write simple sentences in the English language, has received during such period instruction in reading, spelling, writing, English grammar and geography and is familiar with the fundamental operations of arithmetic up to and including fractions. Such school record shall also give the date of birth and residence of the child as shown on the records of the school and the name of its parents or guardian or custodian.

Identical with § 73, *ante*. Compare § 630 of Education Law, *post*.

[Section 166 providing for summer vacation certificates was repealed by L. 1911, ch. 866.]

§ 167. Registry of children employed.— The owner, manager or agent of a mercantile or other establishment specified in section one hundred and sixty-one, employing children, shall keep or cause to be kept, in the office of such establishment, a register, in which shall be recorded the name, birthplace, age and place of residence of all children so employed under the age of sixteen years. Such register and the certificate filed in such office shall be produced for inspection, upon the demand of an officer of the board, department or commissioner of health of the town, village or city where such establishment is situated, or if such establishment is situated in a city of the first class upon the demand of the commissioner of labor. On termination of the employment of the child so registered and whose certificate is so filed, such certificate shall be forthwith surrendered by the employer to the child or its parent or guardian or custodian. An officer of the board, department or commissioner of health of the town, village or city where a mercantile or other establishment mentioned in this article is situated, or if such establishment is situated in a city of the first class the commissioner of labor, may make demand on an employer in whose establishment a child apparently under the age of sixteen years is employed or permitted or suffered to work, and whose employment certificate is not then filed as required by this chapter, that such employer shall either furnish him, within ten days, evidence satisfactory to him that such child is in fact over sixteen years of age, or shall cease to employ or permit or suffer such child to work in such establishment. The officer may require from such employer the same evidence of age of such child as is required on the issuance of an employment certificate; and the employer furnishing such evidence shall not be required to furnish any further evidence of the age of the child. A notice embodying such demand may be served on such employer personally or may be sent by mail addressed to him at said establishment, and if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post. When the employer is a corporation such notice may be served either personally upon an officer of such corporation, or by sending it by post addressed to the office or the principal place of business of such corporation. The papers constituting such

evidence of age furnished by the employer in response to such demand shall, except in cities of the first class, be filed with the board, department or commissioner of health, and in cities of the first class with the commissioner of labor, and a material false statement made in any such paper or affidavit by any person shall be a misdemeanor. In case such employer shall fail to produce and deliver to the officer of the board, department or commissioner of health, or in cities of the first class to the commissioner of labor, within ten days after such demand such evidence of age herein required by him, and shall thereafter continue to employ such child or permit or suffer such child to work in such mercantile or other establishment, proof of the giving of such notice and of such failure to produce and file such evidence shall be prima facie evidence in any prosecution brought for a violation of this article that such child is under sixteen years of age and is unlawfully employed.

Cf. § 76, *ante.*

§ 168. **Wash-rooms and water-closets.**— Suitable and proper wash-rooms and water-closets shall be provided in, adjacent to or connected with mercantile establishments. Such rooms and closets shall be so located and arranged as to be easily accessible to the employees of such establishments.

Such water-closets shall be properly screened and ventilated, and at all times, kept in a clean condition. The water-closets assigned to the female employees of such establishments shall be separate from those assigned to the male employees.

If a mercantile establishment has not provided wash-rooms and water-closets, as required by this section, the board or department of health or health commissioners of the town, village or city where such establishment is situated, unless such establishment is situated in a city of the first class, in which case the commissioner of labor shall cause to be served upon the owner, agent or lessee of the building occupied by such establishment a written notice of the omission and directing such owner, agent or lessee to comply with the provisions of this section respecting such wash-rooms and water closets.

Such owner shall, within fifteen days after the receipt of such notice, cause such wash-rooms and water-closets to be provided. [*As am'd by L.* 1911, *ch.* 866.]

Cf. § 88, *ante.*

§ 169. **Lunch-rooms.**— If a lunch-room is provided in a mercantile establishment where females are employed, such lunch-room shall not be next to or adjoining the water-closets, unless permission is first obtained from the board or department of health or health commissioners of the town, village or city where such mercantile establishment is situated, unless such establishment is situated in a city of the first class in which case such permission must be obtained from the commissioner of labor. Such permission shall be granted unless it appears that proper sanitary conditions do not exist, and it may be revoked at any time by the board or department of health or health commissioners, if it appears that such lunch-room is kept in a manner or in a part of a building injurious to the health of the employees, unless such establishment is situated in a city of the first class in which case said permission may be so revoked by the commissioner of labor.

See also § 89-a, *ante.*

§ 170. **Seats for women in mercantile establishments.**—Chairs, stools or other suitable seats shall be maintained in mercantile establishments for the use of female employees therein, to the number of at least one seat for every three females employed, and the use thereof by such employees shall be allowed at such times and to such extent as may be necessary for the preservation of their health. If the duties of the female employees, for the use of whom the seats are furnished, are to be principally performed in front of a counter, table, desk or fixture, such seats shall be placed in front thereof; if such duties are to be principally performed behind such counter, table, desk or fixture, such seats shall be placed behind the same.

Cf. § 17, *ante.* Violation is a misdemeanor: Penal Law, § 1273, *post.*

§ 171. **Employment of women and children in basements.**—Women or children shall not be employed or permitted to work in the basement of a mercantile establishment, unless permitted by the board or department of health, or health commissioner of the town, village or city where such mercantile establishment is situated, unless such establishment is situated in a city of the first class in which case such permission must be obtained from the commissioner of labor. Such permission shall be granted unless it appears that such basement is not sufficiently lighted and ventilated, and is not in good sanitary condition.

§ 172. **Enforcement of article.**—Except in cities of the first class the board or department of health or health commissioners of a town, village or city affected by this article shall enforce the same and prosecute all violations thereof. Proceedings to prosecute such violations must be begun within sixty days after the alleged offense was committed. All officers and members of such boards, or department, all health commissioners, inspectors and other persons appointed or designated by such boards, departments or commissioners may visit and inspect, at reasonable hours and when practicable and necessary, all mercantile or other establishments herein specified within the town, village or city for which they are appointed. No person shall interfere with or prevent any such officer from making such visitations and inspections, nor shall he be obstructed or injured by force or otherwise while in the performance of his duties. All persons connected with any such mercantile or other establishment herein specified shall properly answer all questions asked by such officer or inspector in reference to any of the provisions of this article. In cities of the first class the commissioner of labor shall enforce the provisions of this article, and for that purpose he and his subordinates shall possess all powers herein conferred upon town, village, or city boards and departments of health and their commissioners, inspectors, and other officers, except that the board or department of health of said cities of the first class shall continue to issue employment certificates as provided in section one hundred and sixty-three of this chapter.

§ 173. **Copy of article to be posted.**—A copy of this article shall be posted in a conspicuous place on every floor in each establishment wherein three or more persons are employed who are affected by its provisions.

ARTICLE 12.

Bureau of Mercantile Inspection.

Section 180. Mercantile inspectors.*
181. Deputies.
182. General powers and duties.
183. Reports.
184. Laws to be posted.

§ 180. Mercantile inspector.—There shall be a bureau of mercantile inspection, which shall be under the immediate charge of a mercantile inspector, but subject to the direction and supervision of the commissioner of labor. The mercantile inspector shall be appointed and be at pleasure removed by the commissioner of labor, and shall receive such annual salary not to exceed three thousand dollars as may be appropriated therefor. [*As am'd by L.* 1910, *ch.* 516.]

Cf. § 42, *ante.*

§ 181. Deputies.— The commissioner of labor may appoint from time to time not more than ten deputy mercantile inspectors, not less than two of whom shall be women, and who may be removed by him at any time. The deputy mercantile inspectors may be divided into three grades, but not more than two shall be of the third grade. Each deputy inspector of the first grade shall receive an annual salary of one thousand dollars, each of the second grade an annual salary of one thousand two hundred dollars, and each of the third grade an annual salary of one thousand five hundred dollars.

§ 182. General powers and duties.— 1. The commissioner of labor may divide the cities of the first class of the state into districts, assign one or more deputy mercantile inspectors to each district, and may in his discretion transfer them from one district to another; he may assign any of them to inspect any special class or classes of mercantile or other establishments specified in article eleven of this chapter, situated in cities of the first class, or to enforce in cities of the first class any special provisions of such article.

2. The commissioner of labor may authorize any deputy commissioner or assistant and any special agent or inspector in the department of labor to act as a deputy mercantile inspector with the full power and authority thereof.

3. The commissioner of labor, the mercantile inspector and his assistant or assistants and every deputy or acting deputy mercantile inspector may in the discharge of his duties enter any place, building or room in cities of the first class where any labor is performed which is effected by the provisions of article eleven of this chapter, and may enter any mercantile or other establishment specified in said article, situated in cities of the first class, whenever he may have reasonable cause to believe that any such labor is performed therein.

4. The commissioner of labor shall visit and inspect or cause to be visited and inspected the mercantile and other establishments specified in article eleven of this chapter situated in cities of the first class, as often as practicable, and shall cause the provisions of said article to be enforced therein.

5. Any lawful municipal ordinance, by-law or regulation relating to mer-

* So in original.

cantile and other establishments specified in article eleven of this chapter, in addition to the provisions of this chapter and not in conflict therewith, may be enforced by the commissioner of labor in cities of the first class.

§ 183. Reports.—The commissioner of labor shall make an annual report to the legislature of the operation of this bureau.

§ 184. Laws to be posted.—A copy or abstract of the applicable provisions of this chapter, to be prepared and furnished by the commissioner of labor, shall be kept posted by the employer in a conspicuous place on each floor of every mercantile or other establishment specified in article eleven of this chapter, situated in a city of the first class, wherein three or more persons are employed who are affected by such provisions.

ARTICLE 13.

Convict-made Goods and Duties of Commissioner of Labor Relative Thereto.

[*Compare* § 620 *of the Penal Law, post. See also subject* PRISON LABOR, *post. As to constitutionality see People v. Beattie,* 96 *App. Div.* 383; *People ex rel. Appel v. Zimmerman,* 102 *App. Div.* 103; *People v. Hawkins,* 157 *N. Y.* 1; *and People ex rel. Phillips v. Raynes,* 136 *App. Div.* 417, *aff'd* 198 *N. Y. Mem.* 39. *Also Constitution, art.* III, § 29, *under* PRISON LABOR, *post.*]

Section 190. License for sale of convict-made goods.
191. Revocation of license.
192. Annual statement of licensee.
193. Labeling and marking convict-made goods.
194. Duties of commissioner of labor relative to violations; fines upon convictions.
195. Article not to apply to goods manufactured for use of state or a municipal corporation.

§ 190. License for sale of convict-made goods.—No person or corporation shall sell, or expose for sale, any convict-made goods, wares or merchandise, either by sample or otherwise, without a license therefor. Such license may be obtained upon application in writing to the comptroller, setting forth the residence or post-office address of the applicant, the class of goods desired to be dealt in, the town, village or city, with the street number, if any, at which the business of such applicant is to be located. Such application shall be accompanied with a bond, executed by two or more responsible citizens, or some legally incorporated surety company authorized to do business in this state, to be approved by the comptroller, in the sum of five thousand dollars, and conditioned that such applicant will comply with all the provisions of law relative to the sale of convict-made goods, wares and merchandise. Such license shall be for a term of one year unless sooner revoked. Such person or corporation shall pay, annually, on or before the fifteenth day of January, the sum of five hundred dollars as a license fee, into the treasury of the state, which amount shall be credited to the maintenance account of the state prisons.

Such license shall be kept conspicuously posted in the place of business of such licensee.

The requirement of a license as in this section is unconstitutional: People ex rel. Phillips v. Raynes, 136 App. Div. 417, aff'd 198 N. Y. Mem. 39.

Products of labor of prisoners in this state not to be sold: Const., art. III, § 29, *post.*

§ 191. **Revocation of license.**— The comptroller may revoke the license of any such person or corporation, upon satisfactory evidence of, or upon conviction for the violation of any statute regulating the sale of convict-made goods, wares or merchandise; such revocation shall not be made until after due notice to the licensee so complained of. For the purpose of this section, the comptroller or any person duly appointed by him, may administer oaths and subpœna witnesses and take and hear testimony.

§ 192. **Annual statement of licensee.**— Each person or corporation so licensed shall, annually, on or before the fifteenth day of January, transmit to the secretary of state a verified statement setting forth:

1. The name of the person or corporation licensed.

2. The names of the persons, agents, wardens or keepers of any prison, jail, penitentiary, reformatory or establishment using convict labor, with whom he has done business, and the name and address of the person or corporation to whom he has sold goods, wares and merchandise, and

3. In general terms, the amount paid to each of such agents, wardens or keepers, for goods, wares or merchandise and the character thereof.

§ 193. **Labeling and marking convict-made goods.**—All goods, wares and merchandise made by convict labor in a penitentiary, prison, reformatory or other establishment in which convict labor is employed, shall be branded, labeled or marked as herein provided. The brand, label or mark, used for such purpose, shall contain at the head or top thereof, the words "convict-made," followed by the year when, and the name of the penitentiary, prison, reformatory or other establishment in which the article branded, labeled or marked was made.

Such brands, labels and marks shall be printed in plain English lettering, of the style and size known as great primer Roman condensed capitals. A brand or mark shall be used in all cases where the nature of the article will permit and only where such branding or marking is impossible shall a label be used. Such label shall be in the form of a paper tag and shall be attached by wire to each article, where the nature of the article will permit, and shall be placed securely upon the box, crate or other covering in which such goods, wares or merchandise are packed, shipped or exposed for sale.

Such brand, mark or label shall be placed upon the most conspicuous part of the finished article and its box, crate or covering.

No convict-made goods, wares or merchandise shall be sold or exposed for sale without such brand, mark or label.

The requirement of branding of goods from other states was held unconstitutional in 1898 in People v. Hawkins, 157 N. Y. 1.

§ 194. **Duties of commissioner of labor relative to violations; fines upon convictions.**— The commissioner of labor shall enforce the provisions of this article. If he has reason to believe that any of such provisions are being violated, he shall advise the district attorney of the county wherein such alleged violation has occurred of such fact, giving the information in support of his conclusion. The district attorney shall, at once, institute the proper proceedings to compel compliance with this article and secure conviction for such violations.

Upon the conviction of a person or corporation for a violation of this article, one-half of the fine recovered shall be paid and certified by the dis-

trict attorney to the commissioner of labor, who shall use such money in investigating and securing information in regard to violations of this chapter, and in paying the expenses of such conviction.

Cf. Penal Law, § 620, *post.*

§ 195. **Article not to apply to goods manufactured for use of state or a municipal corporation.**— Nothing in this article shall apply to or affect the manufacture in state prisons, reformatories and penitentiaries, and furnishing of articles for the use of the offices, departments and institutions of the state or any political division thereof, as provided by section one hundred fifty-eight, one hundred seventy to one hundred seventy-five, both inclusive, one hundred seventy-seven, one hundred seventy-eight, one hundred eighty-one, one hundred eighty-three, one hundred eighty-five, one hundred eighty-six, one hundred eighty-nine, and one hundred ninety-one of the prison law.

ARTICLE 14.

Employer's Liability.

[*In the case of railway employees there should be read with this article section* 64 *of the Railroad Law given under* DUTIES AND LIABILITIES OF EMPLOYERS AND EMPLOYEES, *post.*]

Section 200. Employer's liability for injuries.
201. Notice to be served.
202. Assumption of risks; contributory negligence, when a question of fact.
202-a. Trial; burden of proof.
203. Defense; insurance fund.
204. Existing rights of action continued.
205. Consent by employer and employee to compensation plan.
206. Liability to pay compensation; notice of accident.
207. Amount of compensation; persons entitled; physical examination.
208. Settlement of disputes.
209. Preferential claim; not assignable or subject to attachment; attorney's fee.
210. Cancellation of consent.
211. Reports of compensation plan.
212. Reports by employer.

§ 200. **Employer's liability for injuries.**— When personal injury is caused to an employee who is himself in the exercise of due care and diligence at the time:

1. By reason of any defect in the condition of the ways, works, machinery, or plant, connected with or used in the business of the employer which arose from or had not been discovered or remedied owing to the negligence of the employer or of any person in the service of the employer and intrusted by him with the duty of seeing that the ways, works, machinery, or plant, were in proper condition;

2. By reason of the negligence of any person in the service of the employer intrusted with any superintendence or by reason of the negligence of any person intrusted with authority to direct, control or command any employee in the performance of the duty of such employee. The employee, or in case the injury results in death, the executor or administrator of a deceased employee who has left him surviving a husband, wife or next of kin, shall have the same right of compensation and remedies against the employer as if the employee had not been an employee of nor in the service of the employer nor engaged in his work. The provisions of law relating to actions for causing death by negligence, so far as the same are consistent with this act, shall apply to an action brought by an executor or administrator of a

deceased employee, suing under the provisions of this article. If an employer enters into a contract, written or verbal, with an independent contractor to do part of such employer's work, or if such contractor enters into a contract with a subcontractor to do all or any part of the work comprised in such contractor's contract with the employer, such contract or subcontract shall not bar the liability of the employer for the injuries to the employees of such contractor or subcontractor, caused by any defect in the condition of the ways, works, machinery, or plant, if they are the property of the employer or are furnished by him, and if such defect arose, or had not been discovered or remedied, through the negligence of the employer, or of some person intrusted by him with the duty of seeing that they were in proper condition. [*As am'd by L.* 1910, *ch.* 352.]

§ 201. **Notice to be served.**— No action for recovery of compensation for injury or death under this article shall be maintained unless notice of the time, place and cause of the injury is given to the employer within one hundred and twenty days and the action is commenced within one year after the occurrence of the accident causing the injury or death. The notice required by this section shall be in writing and signed by the person injured or by some one in his behalf, but if from physical or mental incapacity it is impossible for the person injured to give notice within the time provided in this section, he may give the same within ten days after such incapacity is removed. In case of his death without having given such notice, his executor or administrator may give such notice within sixty days after his appointment, but no notice under the provisions of this section shall be deemed to be invalid or insufficient solely by reason of any inaccuracy in stating the time, place or cause of the injury if it be shown that there was no intention to mislead and that the party entitled to notice was not in fact misled thereby. If such notice does not apprise the employer of the time, place or cause of injury, he may, within eight days after service thereof, serve upon the sender a written demand for a further notice, which demand must specify the particular in which the first notice is claimed to be defective, and a failure by the employer to make such demand as herein provided shall be a waiver of all defects that the notice may contain. After service of such demand as herein provided, the sender of such notice may at any time within eight days thereafter serve an amended notice which shall supersede such first notice and have the same effect as an original notice hereunder. The notice required by this section shall be served on the employer, or if there is more than one employer, upon one of such employers, and may be served by delivering the same to or at the residence or place of business of the person on whom it is to be served. The notice or demand may be served by post by letter addressed to the person on whom it is to be served, at his last known place of residence or place of business, and if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post. When the employer is a corporation, notice shall be served by delivering the same or by sending it by post addressed to the office or principal place of business of such corporation. [*As am'd by L.* 1910, *ch.* 352.]

§ 202. **Assumption of risks; contributory negligence, when a question of fact.**— An employee by entering upon or continuing in the service of the

employer shall be presumed to have assented to the necessary risks of the occupation or employment and no others. The necessary risks of the occupation or employment shall, in all cases arising after this article takes effect, be considered as including those risks, and those only, inherent in the nature of the business which remain after the employer has exercised due care in providing for the safety of his employees, and has complied with the laws affecting or regulating such business or occupation for the greater safety of such employees. In an action brought to recover damages for personal injury or for death resulting therefrom received after this act takes effect, owing to any cause, including open and visible defects, for which the employer would be liable but for the hitherto available defense of assumption of risk by the employee, the fact that the employee continued in the service of the employer in the same place and course of employment after the discovery by such employee, or after he had been informed of the danger of personal injury therefrom shall not be, as matter of fact or as matter of law, an assumption of the risk of injury therefrom, but an employee, or his legal representative, shall not be entitled under this article to any right of compensation or remedy against the employer in any case where such employee knew of the defect or negligence which caused the injury and failed, within a reasonable time, to give, or cause to be given, information thereof to the employer, or to some person superior to himself in the service of the employer, or who had intrusted to him some superintendence, unless it shall appear on the trial that such defect or negligence was known to such employer, or superior person, prior to such injuries to the employee; or unless such defect could have been discovered by such employer by reasonable and proper care, tests or inspection. [*As am'd by L.* 1910, *ch.* 352.]

§ 202-a. **Trial; burden of proof.**— On the trial of any action brought by an employee or his personal representative to recover damages for negligence arising out of and in the course of such employment, contributory negligence of the injured employee shall be a defense to be so pleaded and proved by the defendant. [*Added by L.* 1910, *ch.* 352.]

§ 203. **Defense; insurance fund.**— An employer who shall have contributed to an insurance fund created and maintained for the mutual purpose of indemnifying an employee for personal injuries, for which compensation may be recovered under this article, or to any relief society or benefit fund created under the laws of this state, may prove in mitigation of damages recoverable by an employee under this article such proportion of the pecuniary benefit which has been received by such employee from such fund or society on account of such contribution of the employer, as the contribution of such employer to such fund or society bears to the whole contribution thereto.

Under the common law an agreement relieving the employer from liability is void: Johnston v. Fargo, as President of the American Express Company, 184 N. Y. 379 (1906), aff'g 98 App. Div. 436. But an employee may release an employer from liability in consideration of benefits from a relief fund: Colaizzi v. Pennsylvania R. R. Co., 143 App. Div. 638.

§ 204. **Existing rights of action continued.**— Every existing right of action for negligence or to recover damages for injuries resulting in death is continued and nothing in this article contained shall be construed as limiting any such right of action, nor shall the failure to give the notice provided for

in section two hundred and one of this article be a bar to the maintenance of a suit upon any such existing right of action.

§ 205. Consent by employer and employee to compensation plan.— When and if any employer in this state and any of his employees shall consent to the compensation plan described in sections two hundred and six to two hundred and twelve, inclusive, of this article, hereinafter referred to as the plan, and shall signify their consent thereto in writing signed by each of them or their authorized agents, and acknowledged in the manner prescribed by law for taking the acknowledgment of a conveyance of real property, and such writing is filed with the county clerk of the county in which it is signed by the employee, then so long as such consent has not expired or been canceled as hereinafter provided, such employee, or in case injury to him results in death, his executor or administrator, shall have no other right of action against the employer for personal injury or death of any kind, under any statute or at common law, save under the plan so consented to, except where personal injury to the employee is caused in whole or in part by the failure of the employer to obey a valid order made by the commissioner of labor or other public authority authorized to require the employer to safeguard his employees, or where such injury is caused by the serious or willful misconduct of the employer. In such excepted cases thus described, no right of action which the employee has at common law or by any other statute shall be affected or lost by his consent to the plan, if such employee, or in case of death his executor or administrator, commences such action before accepting any benefit under such plan or giving any notice of injury as provided in section two hundred and six hereof. The commencing of any legal action whatsoever at common law or by any statute against the employer on account of such injury, except under the plan, shall bar the employee, and in the event of his death his executors, administrators, dependents and other beneficiaries, from all benefit under the plan. This section and sections two hundred and six to two hundred and twelve, inclusive, of this article shall not apply to a railroad corporation, foreign or domestic, doing business in this state, or a receiver thereof, or to any person employed by such corporation or receiver. [*Added by L.* 1910, *ch.* 352.]

§ 206. Liability to pay compensation; notice of accident.— If personal injury by accident arising out of and in the course of the employment is caused to the employee, the employer shall, subject as hereinafter mentioned, be liable to pay compensation under the plan at the rates set out in section two hundred and seven of this article: provided that the employer shall not be liable in respect of any injury which does not disable the employee for a period of at least two weeks from earning full wages at the work at which he was employed, and that the employer shall not be liable in respect of any injury to the employee which is caused by the serious and willful misconduct of that employee. No proceedings for recovery under the plan provided hereby shall be maintained unless notice of the accident has been given to the employer as soon as practicable after the happening thereof and before the employee has voluntarily left the employment in which he was injured and during such disability, and unless claim for compensation with respect to the accident has been made within six months from the occurrence of the accident, or in the case of death of the employee, or in the event of his

physical or mental incapacity within six months after such death or removal of such physical or mental incapacity, or in the event that weekly payments have been made under the plan, within six months after such payments have ceased; but no want of or defect or inaccuracy of a notice shall be a bar to the maintenance of proceedings under the plan unless the employer proves that he is prejudiced by such want, defect or inaccuracy. Notice of the accident shall apprise the employer of the claim for compensation under this plan and shall state the name and address of the employee injured, the date and place of the accident and in simple language the cause thereof. The notice may be served personally or by sending it by mail in a registered letter addressed to the employer at his last known residence or place of business. [*Added by L.* 1910, *ch.* 352.]

§ 207. **Amount of compensation; persons entitled; physical examination.**— The amount of compensation under the plan shall be: 1. In case death results from injury:

(a) If the employee leaves a widow or next of kin at the time of his death wholly dependent on his earnings, a sum equal to twelve hundred times the daily earnings of the employee at the rate at which he was being paid by the employer at the time of the accident, but not more in any event than three thousand dollars. Any weekly payments previously made under the plan shall be deducted in ascertaining such amount payable on death.

(b) If such widow or next of kin or any of them are in part only dependent upon his earnings, such sum not exceeding that provided in subdivision a as may be determined to be reasonable and proportionate to the injury to such dependents.

(c) If he leaves no widow, or next of kin so dependent in whole or in part, the reasonable expenses of his medical attendance and burial, not exceeding one hundred dollars. Whatever sum may be determined to be payable under the plan, in case of death of the injured employee, shall be paid to his legal representative for the benefit of such dependents, or if he leaves no such dependents, for the benefit of the person to whom the expenses of medical attendance and burial are due.

2. Where total or partial incapacity for work at any gainful employment results to the employee from the injury, a weekly payment commencing at the end of the second week after the injury and continuing during incapacity, subject as herein provided, not exceeding fifty per centum of his average weekly earnings when at work on full time during the preceding year during which he shall have been in the employment of the same employer, or if he shall have been employed less than a year, then a weekly payment of not exceeding three times the average daily earnings on full time for such less period.

In fixing the amount of the weekly payment, regard shall be had to any payment, allowance or benefit which the workman may have received from the employer during the period of his incapacity, and in the case of partial incapacity the weekly payment shall in no case exceed the difference between the amount of the average weekly earnings of the workman before the accident and the average amount which he is earning or is able to earn in some suitable employment or business after the accident but shall amount to one-half of such difference. In no event shall any weekly payment pay-

able under the plan exceed ten dollars per week or extend over more than eight years from the date of the accident. Any person entitled to receive weekly payments under the plan is required, if requested by the employer, to submit himself for examination by a duly qualified medical practitioner or surgeon provided and paid for by the employer, at a time and place reasonably convenient for the employee, within three weeks after the injury, and thereafter at intervals not oftener than once in six weeks. If the workman refuses so to submit or obstructs the same, his right to weekly payments shall be suspended until such examination shall have taken place, and no compensation shall be payable under the plan during such period. In case an injured employee shall be mentally incompetent at the time when any right or privilege accrues to him under the plan, a committee or guardian of the incompetent appointed pursuant to law may, on behalf of such incompetent, claim and exercise any such right or privilege with the same force and effect as if the employee himself had been competent and had claimed or exercised any such right or privilege; and no limitation of time herein provided for shall run so long as said incompetent employee has no committee or guardian. [*Added by L.* 1910, *ch.* 352.]

§ 208. **Settlement of disputes.**— Any question of law or fact arising in regard to the application of the plan in determining the compensation payable thereunder or otherwise shall be determined either by agreement or by arbitration as provided in the code of civil procedure, or by an action at law as herein provided. In case the employer shall be in default in any of his obligations to the employee under the plan, the injured employee or his committee or guardian, if such be appointed, or his executor or administrator, may then bring an action to recover compensation under the plan in any court having jurisdiction thereof as on a written contract. Such action shall be conducted in the same manner as an action at law for the recovery of damages for breach of a written contract, and shall for all purposes, including the determination of jurisdiction, be deemed such an action. The judgment in such action, in favor of the plaintiff, shall be for a lump sum equal to the amount of the payments then due and prospectively due under the plan. In such action by an executor or administrator the judgment may provide the proportions of the award or the costs to be distributed to or between the several dependents. If such determination is not made it shall be determined by the surrogate's court by which such executor or administrator is appointed, in accordance with the terms of this article on petition of any party on such notice as such court may direct. [*Added by L.* 1910, *ch.* 352.]

§ 209. **Preferential claim; not assignable or subject to attachment; attorney's fees.**— Any person entitled to weekly payments under the plan against any employer shall have the same preferential claim therefor against the assets of the employer as now allowed by law for a claim by such person against such employer for unpaid wages or personal services. Weekly payments due under the plan shall not be assignable or subject to attachment, levy or execution. No claim of an attorney for any contingent interest in any recovery under the plan for services in securing such recovery shall be an enforceable lien thereon, unless the amount of the same be approved in

writing by a justice of the supreme court, or in case the same is tried in any court, before the justice presiding at such trial. [*Added by L.* 1910, *ch.* 352.]

§ 210. **Cancellation of consent.**— When a consent to the plan shall have been filed in the office of the county clerk as herein provided, it shall be binding upon both parties thereto as long as the relation of employer and employee exists between the parties, and expire at the end of such employment, but it may at any time be canceled on sixty days' notice in writing from either party to the other. Such notice of cancellation shall be effective only if served personally or sent by registered letter to the last known post-office address of the party to whom it is addressed, but no notice of cancellation shall be effective as to a claim for injury occurring previous thereto. 1910, *ch.* 352.]

§ 211. **Reports of compensation plan.**— Each employer who shall sign with any employee a consent to the plan shall, within thirty days thereafter, file with the commissioner of labor a statement thereof, signed by such employer, which shall show (a) the name of the employer and his post-office address, (b) the name of the employee and his last known post-office address, (c) the date of, and office where the original consent is filed, (d) the weekly wage of the employee at the time the consent is signed; unless such statement is duly filed, such consent of the employee shall not be a bar to any proceeding at law commenced by the employee against the employer. [*Added by L.* 1910, *ch.* 352.]

§ 212. **Reports by employer.**— Each employer of labor in this state who shall have entered into the plan with any employee shall, on or before the first day of January, nineteen hundred and eleven, and thereafter and at such times as may be required by the commissioner of labor, make a report to such commissioner of all amounts, if any, paid by him under such plan to injured employees, stating the name of such employees, and showing separately the amounts paid under agreement with the employees, and the amounts paid after proceedings at law, and the proceedings at law under the plan then pending. Such reports shall be verified by the employer or a duly authorized agent in the same manner as affidavits. [*Added by L.* 1910, *ch.* 352.]

ARTICLE 14-a.

Workmen's Compensation in Certain Dangerous Employments.

[*Added by L.* 1910, *ch.* 674. *Held unconstitutional by the Court of Appeals in Ives* v. *South Buffalo Ry. Co.*, 201 *N. Y.* 271 (1911).]

Section 215. Application of article.
216. Definitions.
217. Basis of liability.
218. Rights of action not affected.
219. Notice of accident.
219-a. Scale of compensation.
219-b. Medical examinations.
219-c. Incompetency of workman.
219-d. Settlement of disputes.
219-e. Preferences and exemptions.
219-f. Attorneys' liens.
219-g. Liability of principal contractors.

§ 215. **Application of article.**— This article shall apply only to workmen engaged in manual or mechanical labor in the following employments, each

of which is hereby determined to be especially dangerous, in which from the nature, conditions or means of prosecution of the work therein, extraordinary risks to the life and limb of workmen engaged therein are inherent, necessary or substantially unavoidable, and as to each of which employments it is deemed necessary to establish a new system of compensation for accidents to workmen.

1. The erection or demolition of any bridge or building in which there is, or in which the plans and specificatons require, iron or steel frame work.

2. The operation of elevators, elevating machines or derricks or hoisting apparatus used within or on the outside of any bridge or building for the conveying of materials in connection with the erection or demolition of such bridge or building.

3. Work on scaffolds of any kind elevated twenty feet or more above the ground, water, or floor beneath in the erection, construction, painting, alteration or repair of buildings, bridges or structures.

4. Construction, operation, alteration or repair of wires, cables, switchboards or apparatus charged with electric currents.

5. All work necessitating dangerous proximity to gunpowder, blasting powder, dynamite or any other explosives, where the same are used as instrumentalities of the industry.

6. The operation on steam railroads of locomotives, engines, trains, motors or cars propelled by gravity or steam, electricity or other mechanical power, or the construction or repair of steam railroad tracks and road beds over which such locomotives, engines, trains, motors or cars are operated.

7. The construction of tunnels and subways.

8. All work carried on under compressed air.

§ 216. **Definitions.**— The words, "employer," "workman" and "employment," or their plurals, used in this article, shall be construed to apply to all the employments above described.

§ 217. **Basis of liability.**— If, in the course of any of the employments above described, personal injury by accident arising out of and in the course of the employment after this article takes effect is caused to any workman employed therein, in whole or in part, or the damage or injury caused thereby is in whole or part contributed to by

a. A necessary risk or danger of the employment or one inherent in the nature thereof; or

b. Failure of the employer of such workman or any of his or its officers, agents or employees to exercise due care, or to comply with any law affecting such employment; then such employer shall, subject as hereinafter mentioned, be liable to pay compensation at the rates set out in section two hundred and nineteen-a of this title; provided that the employer shall not be liable in respect of any injury which does not disable the workman for a period of at least two weeks from earning full wages at the work at which he was employed, and provided that the employer shall not be liable in respect of any injury to the workman which is caused in whole or in part by the serious and willful misconduct of the workman.

§ 218. **Rights of action not affected.**— The right of action for damages caused by any such injury, at common law or under any statute in force on January one, nineteen hundred and ten, shall not be affected by this article,

and every existing right of action for negligence or to recover damages for injuries resulting in death is continued, and nothing in this article shall be construed as limiting such right of action, but in case the injured workman, or in event of his death his executor or administrator, shall avail himself of this article, either by accepting any compensation hereunder in accordance with section two hundred and nineteen-a hereof or by beginning proceedings therefor in any manner on account of any such injury, he shall be barred from recovery in and deemed thereby to have released every other action at common law or under any other statute on account of the same injury after this article takes effect. In case after such injury the workman, or in the event of his death his executor or administrator, shall commence any action at common law or under any statute other than this article against the employer therefor he shall be barred from all benefit of this article in regard thereto.

§ 219. **Notice of accident.**— No proceedings for compensation under this article shall be maintained unless notice of the accident as hereinafter provided has been given to the employer as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured, and during such disability, but no want or defect or inaccuracy of a notice shall be a bar to the maintenance of proceedings unless the employer proves that he is prejudiced by such want, defect or inaccuracy. Notice of the accident shall state the name and address of the workman injured, the date and place of the accident, and in simple language the physical cause thereof, if known. The notice may be served personally or by sending it by mail in a registered letter addressed to the employer at his last known residence or place of business.

§ 219-a. **Scale of compensation.**— The amount of compensation shall be in case death results from injury:

a. If the workman leaves a widow or next of kin at the time of his death wholly dependent on his earnings, a sum equal to twelve hundred times the daily earnings of such workman at the rate at which he was being paid by such employer at the time of the injury subject as hereinafter provided, and in no event more than three thousand dollars. Any weekly payments made under this article shall be deducted in ascertaining such amount.

b. If such widow or next of kin at the time of his death are in part only dependent upon his earnings, such proportionate sum not exceeding that provided in subdivision a as may be determined according to the injury to such dependents.

c. If he leaves no dependents, the reasonable expenses of his medical attendance and burial, not exceeding one hundred dollars.

Whatever sum may be determined to be payable under this article in case of death of the injured workman shall be paid to his legal representative for the benefit of such dependents, or if he leaves no such dependents, for the benefit of the persons to whom the expenses of medical attendance and burial are due.

2. Where total or partial incapacity for work at any gainful employment results to the workman from the injury, a weekly payment commencing at the end of the second week after the injury and continuing during such incapacity, subject as herein provided, equal to fifty per centum of his

average weekly earnings when at work on full time during the preceding year during which he shall have been in the employment of the same employer, or if he shall have been in the employment of the same employer for less than a year, then a weekly payment of not exceeding three times the average daily earnings on full time for such less period. In fixing the amount of the weekly payment, regard shall be had to the difference between the amount of the average earnings of the workman before the accident and the average amount he is able to earn thereafter as wages in the same employment or otherwise. In fixing the amount of the weekly payment, regard shall be had to any payment, allowance or benefit which the workman may have received from the employer during the period of his incapacity, and in the case of partial incapacity the weekly payment shall in no case exceed the difference between the amount of the average weekly earnings of the workman before the accident and the average weekly amount which he is earning or is able to earn in the same employment or otherwise after the accident, but shall amount to one-half of such difference. In no event shall any compensation paid under this article exceed the damage suffered, nor shall any weekly payment payable under this article in any event exceed ten dollars a week or extend over more than eight years from the date of the accident.

§ 219-b. **Medical examinations.**— Any workman entitled to receive weekly payments under this article is required, if requested by the employer, to submit himself for examination by a duly qualified medical practitioner or surgeon provided and paid for by the employer, at a time and place reasonably convenient for the workman, within three weeks after the injury, and thereafter at intervals not oftener than once in six weeks. If the workman refuses to submit to such examination, or obstructs the same, his right to weekly payments shall be suspended until such examination has taken place, and no compensation shall be payable during or for account of such period.

§ 219-c. **Incompetency of workman.**— In case an injured workman shall be mentally incompetent at the time when any right or privilege accrues to him under this article, a committee or guardian of the incompetent appointed pursuant to the law may, on behalf of such incompetent, claim and exercise any such right or privilege with the same force and effect as if the workman himself had been competent and had claimed or exercised any such right or privilege; and no limitation of time in this article provided for shall run so long as said incompetent workman has no committee or guardian.

§ 219-d. **Settlement of disputes.**— Any question which may arise under this act shall be determined either by agreement or by arbitration as provided in the code of civil procedure or by an action at law as herein provided. In case the employer fail to make compensation as herein provided, the injured workman, or his committee or guardian, if such be appointed, or his executor or administrator, may then bring an action to recover compensation under this article in any court having jurisdiction thereof, or in any court which would have had jurisdiction of an action for recovery of damages for negligence for the same injury between the same parties. This article however shall not be construed as extending the jurisdiction of any such court to award judgment for an amount greater than now allowed by law. Such

action shall be conducted in the same manner as actions at law for the recovery of damages for negligence. The judgment in such action if in favor of the plaintiff shall be for a sum equal to the amount of payments then due and prospectively due under this article. Such action must be commenced within six months after the happening of the accident or in case of the death of the workman by such accident within six months after the appointment of his legal representative in this state, or in the event of his physical incapacity, within six months after the removal thereof, or in the event of weekly payments by the employer hereunder, within six months after such payments have ceased. In such action by an executor or administrator the judgment may provide the proportions of the award or the costs to be distributed to or between the several dependents. If such determination is not made it shall be determined by the surrogate's court, in which such executor or administrator is appointed, in accordance with this article, on petition of any party interested on such notice as such court may direct.

§ 219-e. **Preferences and exemptions.**— Any person entitled to weekly payments under this article against any employer shall have the same preferential claim therefor against the assets of the employer as allowed by law for a claim by such person against such employer for unpaid wages or personal services. Weekly payments due under this article shall not be assignable or subject to levy, execution or attachment.

§ 219-f. **Attorneys' liens.**— No claim of an attorney-at-law for any contingent interest in any recovery under this article for services in securing such recovery or for disbursements shall be an enforceable lien on such recovery, unless the amount of the same be approved in writing by a justice of the supreme court, or in case the same be tried in any court, by the justice presiding at such trial.

§ 219-g. **Liability of principal contractors.**— If an employer who shall be the principal enters into a contract with an independent contractor to do part of such employer's work, or if such contractor enters into a contract with a subcontractor to do all or any part of the work comprised in such contractor's contract with the employer, the said principal shall be liable to pay to any workman employed in the execution of the work any compensation under this article which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from or proceedings are taken against the principal then, in the application of this article, references to the principal shall be substituted for references to the employer, except that the amount of compensation shall be calculated with reference to the earnings of the workman under the contractor or employer by whom he is immediately employed. Where such principal is liable to pay compensation he shall be entitled to be indemnified by any person who would have been liable to pay compensation to the workman independently of this section. Nothing in this section shall be construed as preventing a workman from recovering compensation under this article from the contractor or subcontractor, instead of the principal; nor shall this section apply in any case where the accident shall occur elsewhere than on, or in, or about the premises on which the principal has undertaken to execute the work or which are otherwise under his control or management.

ARTICLE 15.

Employment of Children in Street Trades.

Section 220. Prohibited employment of children in street trades.
221. Permit and badge for newsboys, how issued.
222. Contents of permit and badge.
223. Regulations concerning badge and permit.
224. Limit of hours.
225. Enforcement of article.
226. Violation of this article, how punished.

§ 220. **Prohibited employment of children in street trades.**—No male child under ten, and no girl under sixteen years of age, shall in any city of the first or second class sell or expose or offer for sale newspapers, magazines or periodicals in any street or public place.

Relative to employment of minors in mercantile establishments or as messengers see §§ 161–161-a, *ante*.

§ 221. **Permit and badge for newsboys, how issued.**—No male child under fourteen years of age shall sell or expose or offer for sale said articles unless a permit and badge as hereinafter provided shall have been issued to him by the district superintendent of the board of education of the city and school district where said child resides, or by such other officer thereof as may be officially designated by such board for that purpose, on the application of the parent, guardian or other person having the custody of the child desiring such permit and badge, or in case said child has no parent, guardian or custodian then on the application of his next friend, being an adult. Such permit and badge shall not be issued until the officer issuing the same shall have received, examined, approved and placed on file in his office satisfactory proof that such male child is of the age of ten years or upwards, and shall also have received, examined and placed on file the written statement of the principal or chief executive officer of the school which the child is attending, stating that such child is an attendant at such school, that he is of the normal development of a child of his age and physically fit for such employment, and that said principal or chief executive officer approves the granting of a permit and badge to such child. No such permit or badge shall be valid for any purpose except during the period in which such proof and written statement shall remain on file, nor shall such permit or badge be authority beyond the period fixed therein for its duration. After having received, examined and placed on file such papers the officer shall issue to the child a permit and badge. Principals or chief executive officers of schools in which children under fourteen years are pupils shall keep complete lists of all children in their schools to whom a permit and badge as herein provided have been granted.

§ 222. **Contents of permit and badge.**—Such permit shall state the date and place of birth of the child, the name and address of its parent, guardian, custodian or next friend, as the case may be, and describe the color of hair and eyes, the height and weight and any distinguishing facial mark of such child, and shall further state that the papers required by the preceding section have been duly examined and filed; and that the child named in such

permit has appeared before the officer issuing the permit. The badge furnished by the officer issuing the permit shall bear on its face a number corresponding to the number of the permit, and the name of the child. Every such permit, and every such badge on its reverse side, shall be signed in the presence of the officer issuing the same by the child in whose name it is issued.

§ 223. Regulations concerning badge and permit.— The badge provided for herein shall be worn conspicuously at all times by such child while so working; and all such permits and badges shall expire annually on the first day of January. The color of the badge shall be changed each year. No child to whom such permit and badge are issued shall transfer the same to any other person nor be engaged in any city of the first or second class as a newsboy, or shall sell or expose or offer for sale newspapers, magazines or periodicals in any street or public place without having conspicuously upon his person such badge, and he shall exhibit the same upon demand at any time to any police, or attendance officer.

§ 224. Limit of hours.— No child to whom a permit and badge are issued as provided for in the preceding sections shall sell or expose or offer for sale any newspapers, magazines or periodicals after ten o'clock in the evening, or before six o'clock in the morning.

§ 225. Enforcement of article.— In cities of the first or second class, police officers, and the regular attendance officers appointed by the board of education, who are hereby vested with the powers of peace officers for the purpose, shall enforce the provisions of this article.

§ 226. Violation of this article, how punished.—Any child who shall work in any city of the first or second class in any street or public place as a newsboy or who shall sell or expose or offer for sale newspapers, magazines or periodicals in violation of the provisions of this article, shall be arrested and brought before a court or magistrate having jurisdiction to commit a child to an incorporated charitable reformatory or other institution and be dealt with according to law; and if any such child is committed to an institution, it shall when practicable, be committed to an institution governed by persons of the same religious faith as the parents of such child. The permit and badge of any child who violates the provisions of this article may be revoked by the officer issuing the same, upon the recommendation of the principal or chief executive officer of the school which such child is attending, or upon the complaint of any police officer or attendance officer, and such child shall surrender the permit and badge so revoked upon the demand of any attendance officer or police officer charged with the duty of enforcing the provisions of this article. The refusal of any child to surrender such permit and badge, upon such demand, or the sale or offering for sale of newspapers, magazines or periodicals in any street or public place by any child after notice of the revocation of such permit and badge shall be deemed a violation of this article and shall subject the child to the penalties provided for in this section.

ARTICLE 16.

Laws Repealed; When to Take Effect.

Section 240. Laws repealed.
241. When to take effect.

§ 240. **Laws repealed.**— Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed.

§ 241. When to take effect.— This chapter shall take effect immediately.*

SCHEDULE OF LAWS REPEALED.

Laws of	Chapter	Section
1833.....	87.....	All
1853.....	641.....	All
1867.....	856.....	All
1867.....	969.....	All
1868.....	717.....	2, part suspending operation of L. 1867, Ch. 969, § 10, last two sentences
1869.....	822.....	2, part amending L. 1867, Ch. 969
1870.....	385.....	All
1871.....	934.....	3
1874.....	614.....	All
1875.....	472.....	All
1881.....	298.....	All
1883.....	356.....	All
1885.....	314.....	All
1885.....	376.....	All
1886.....	151.....	All
1886.....	205.....	All
1886.....	409.....	All, except § 21, as added by L. 1887, Ch. 462, § 4
1886.....	410.....	All
1887.....	63.....	All
1887.....	323.....	All
1887.....	462.....	All
1887.....	529.....	All
1888.....	437.....	All
1889.....	380.....	All
1889.....	381.....	All
1889.....	385.....	All
1889.....	560.....	All
1890.....	218.....	All
1890.....	388.....	All
1890.....	394.....	All
1890.....	398.....	All
1891.....	214.....	All
1892.....	517.....	All
1892.....	667.....	All
1892.....	673.....	All

* February 17, 1909.

Laws of	Chapter	Section
1892	711	All
1893	173	All
1893	219	All
1893	339	All
1893	691	All
1893	715	All
1893	717	All
1894	277	All
1894	373	All
1894	622	All
1894	698	All
1894	699	All
1895	324	All
1895	413	All
1895	518	All
1895	670	All
1895	765	All
1895	791	All
1895	899	All
1896	271	All
1896	384	All
1896	672	All
1896	789	All
1896	931	1–4, 6, 7
1896	936	All
1896	982	All
1896	991	All
1897	148	All
1897	415	All
1899	191	All
1899	192	All
1899	375	All
1899	558	All
1899	567	All
1900	298	All
1900	533	All
1901	9	All
1901	306	All
1901	475	All
1901	477	All
1901	478	All
1902	88	All
1902	454	All
1902	600	All
1903	151	All
1903	184	All
1903	255	All
1903	561	All

Laws of	Chapter	Section
1904	291	All
1904	523	All
1904	550	All
1905	493	All
1905	518	All
1905	519	All
1905	520	All
1906	129	All
1906	158	All
1906	178	All
1906	216	All
1906	275	All
1906	316	All
1906	366	All
1906	375	All
1906	401	All
1906	490	All
1906	506	All
1907	83	All
1907	243	All
1907	286	All
1907	291	All
1907	399	All
1907	418	All
1907	485	All
1907	490	All
1907	505	All
1907	507	All
1907	588	All
1907	627	All
1908	89	All
1908	174	All
1908	426	All
1908	442	All
1908	443	All
1908	520	All

PENALTIES FOR VIOLATION OF THE LABOR LAW.

THE PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 620. **Unlawful dealing in convict made goods.**—A person who:

1. Sells or exposes for sale convict made goods, wares or merchandise, without a license therefor, or having such license does not transmit to the secretary of state the statement required by article thirteen of the labor law; or,

2. Sells, offers for sale, or has in his possession for sale any such convict made goods, wares or merchandise without the brand, mark or label required by article thirteen of the labor law; or,

3. Removes or defaces or in any way alters such brand, mark or label,

Is guilty of a misdemeanor, and upon conviction therefor shall be punished by a fine of not more than one thousand or less than one hundred dollars, or by imprisonment for not less than ten days or by both such fine and imprisonment.

Cf. notes with §§ 190 and 193 of the Labor Law, *ante*.

ARTICLE 120.

Labor.

Section 1270. Refusal to admit inspector to mines, tunnels, and quarries; failure to comply with requirements of inspector.
1271. Hours of labor to be required.
1272. Payment of wages.
1273. Failure to furnish seats for female employees.
1274. No fees to be charged for services rendered by free public employment bureaus.
1275. Violations of provisions of labor law.
1276. Negligently furnishing insecure scaffolding.
1277. Neglect to complete or plank floors of buildings constructed in cities.
1278. Fraudulent representation in labor organizations.

§ 1270. **Refusal to admit inspector to mines, tunnels, and quarries; failure to comply with requirements of inspector.**—A person:

1. Refusing to admit the commissioner of labor, or any person authorized by him, to a mine, tunnel or quarry, and to each and every part thereof, for the purpose of examination and inspection; or,

2. Neglecting or refusing to comply with the provisions of article nine of the labor law upon written notice of the commissioner of labor,

Is guilty of a misdemeanor, and upon conviction therefor shall be punished by a fine of not less than fifty dollars, or by imprisonment for not less than thirty days.

§ 1271. **Hours of labor to be required.**—Any person or corporation:

1. Who, contracting with the state or municipal corporation, shall require more than eight hours' work for a day's labor; or,

2. Who shall require more than ten hours' labor, including one-half hour for dinner, to be performed within twelve consecutive hours, by the employees of a street surface and elevated railway owned or operated by corporations

whose main line of travel or routes lie principally within the corporate limits of cities of more than one hundred thousand inhabitants; or,

3. Who shall require the employees of a corporation owning or operating a brickyard to work contrary to the requirements of section five of the labor law; or,

4. Who shall require or permit any employee engaged in or connected with the movement of any train of a corporation operating a line of railroad of thirty miles in length, or over, in whole or in part within this state, to remain on duty more than sixteen consecutive hours; or to require or permit any such employee who has been on duty sixteen consecutive hours to go on duty without having had at least ten hours off duty; or to require or permit any such employee who has been on duty sixteen hours in the aggregate in any twenty-four hour period, to continue on duty or to go on duty without having had at least eight hours off duty within such twenty-four hour period; except when by casualty occurring after such employee has started on his trip, or by unknown casualty occurring before he started on his trip, and except when by accident or unexpected delay of trains scheduled to make connection with the train on which such employee is serving, he is prevented from reaching his terminal;

Is guilty of a misdemeanor, and on conviction therefor shall be punished by a fine of not less than five hundred nor more than one thousand dollars for each offense.

If any contractor with the state or a municipal corporation shall require more than eight hours for a day's labor, upon conviction therefor in addition to such fine, the contract shall be forfeited at the option of the municipal corporation.

See §§ 3–8 of the Labor Law, *ante.*

§ 1272. **Payment of wages.**—A corporation or joint stock association or person carrying on the business thereof, by lease or otherwise, who does not pay the wages of all its employees in accordance with the provisions of the labor law, is guilty of a misdemeanor, and upon conviction therefor, shall be fined not less than one hundred nor more than ten thousand dollars for each offense. An indictment of a person or corporation operating a steam surface railroad for an offense specified in this section may be found and tried in any county within the state in which such railroad ran at the time of such offense. [*As am'd by L.* 1909, *ch.* 205.]

See §§ 9 and 10 of the Labor Law, *ante.*

§ 1273. **Failure to furnish seats for female employees.**—Any person employing females in a factory or mercantile establishment who does not provide and maintain suitable seats for the use of such employees and permit the use thereof by such employees to such an extent as may be reasonable for the preservation of their health, is guilty of a misdemeanor.

See §§ 17 and 170 of Labor Law, *ante.*

§ 1274. **No fees to be charged for services rendered by free public employment bureaus.**—A person connected with or employed in a free public employment bureau, who shall charge or receive directly or indirectly, any fee or compensation from any person applying to such bureau for help or employment, is guilty of a misdemeanor.

§ 1275. Violations of provisions of labor law.—Any person who violates or does not comply with:

1. The provisions of article three of the labor law, relating to the department of labor;

2. The provisions of article four of the labor law, relating to the bureau of labor statistics;

3. The provisions of article five of the labor law, relating to the bureau of factory inspection;

4. The provisions of article six of the labor law, relating to factories;

5. The provisions of article seven of the labor law, relating to the manufacture of articles in tenements;

6. The provisions of article eight of the labor law, relating to bakeries and confectionery establishments;

7. The provisions of article eleven of the labor law, relating to mercantile establishments, and the employment of women and children therein;

7-a. The provisions of article ten-a of the labor law relating to the bureau of industries and immigration; [*Added by L.* 1912, *ch.* 383.]

8. And any person who knowingly makes a false statement in or in relation to any application made for an employment certificate as to any matter required by articles six and eleven of the labor law to appear in any affidavit, record, transcript or certificate therein provided for,

Is guilty of a misdemeanor and upon conviction shall be punished for a first offense by a fine of not less than twenty nor more than fifty dollars; for a second offense by a fine of not less than fifty nor more than two hundred and fifty dollars, or by imprisonment for not more than thirty days or by both such fine and imprisonment; for a third offense by a fine of not less than two hundred and fifty dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment . [*As am'd by L.* 1911, *ch.* 749.]

§ 1276. Negligently furnishing insecure scaffolding.—A person or corporation employing or directing another to do or perform any labor in the erection, repairing, altering or painting, any house, building or structure within this state, who knowingly or negligently furnishes or erects or causes to be furnished or erected for the performance of such labor, unsafe, unsuitable or improper scaffolding, hoists, stays, ladders or other mechanical contrivances; or who hinders or obstructs any officer detailed to inspect the same, destroys or defaces any notice posted thereon, or permits the use thereof after the same has been declared unsafe by such officer contrary to the provisions of article two of the labor law, is guilty of a misdemeanor.

See §§ 18 and 19 of the Labor Law, *ante.*

§ 1277. Neglect to complete or plank floors of buildings constructed in cities.—A person, constructing a building in a city, as owner or contractor, who violates the provisions of article two of the labor law, relating to the completing or laying of floors, or the planking of such floors or tiers of beams as the work of construction progresses, is guilty of a misdemeanor, and upon conviction therefor shall be punished by a fine for each offense of not less than twenty-five nor more than two hundred dollars.

See § 20 of the Labor Law, *ante.*

§ 1278. Fraudulent representation in labor organizations.— [See under TRADE UNIONS, *post.*]

CHILD LABOR.

[The employment of children during the school sessions is regulated by Article 23 of the Education Law, printed below.

The employment of children in factories is regulated by Article 6 of the Labor Law, *ante;* in stores, hotels, offices, etc., by Article 11, *ante,* and in the selling of newspapers by Article 15, *ante.*

Article 44 of the Penal Law, (§§ 480–494), entitled "Children," contains provisions relative to the employment of children in occupations dangerous to health or morals. Certain of these sections are printed below. See further § 1982 of the Penal Law prohibiting the employment of minors under 18 as telegraph operators on railroads; and the Liquor Tax Law, § 30-f, forbidding girls and minors under 18 to sell or serve liquors.

As to registration of births, from which evidence of a child's attainment of the legal age of employment is derived, see Public Health Law, § 22.]

EDUCATIONAL RESTRICTIONS.

COMPULSORY EDUCATION LAW: ARTICLE 23 OF CHAPTER 16 OF THE CONSOLIDATED LAWS.

[*Enacted by ch.* 140 *of Laws of* 1910, *amending ch.* 16 *of the Consolidated Laws of* 1909.]

§ 620. **Instruction required.**—The instruction required under this article shall be:

1. At a public school in which at least the six common school branches of reading, spelling, writing, arithmetic, English language and geography are taught in English.

2. Elsewhere than a public school upon instruction in the same subjects taught in English by a competent teacher.

§ 621. **Required attendance upon instruction.**—1. Every child within the compulsory school ages, in proper physical and mental condition to attend school, residing in a city or school district having a population of five thousand or more and employing a superintendent of schools, shall regularly attend upon instruction as follows:

(a) Each child between seven and fourteen years of age shall attend the entire time during which the school attended is in session, which period shall not be less than one hundred and sixty days of actual school.

(b) Each child between fourteen and sixteen years of age not regularly and lawfully engaged in any useful employment or service, and to whom an employment certificate has not been duly issued under the provisions of the labor law, shall so attend the entire time during which the school attended is in session.

2. Every such child, residing elsewhere than in a city or school district having a population of five thousand or more and employing a superintendent of schools, shall attend upon instruction as many days annually between the first day of October and the following June as the public school of the district in which such child resides, shall be in session during such period, as follows:

(a) Each child between eight and fourteen years of age.

(b) Each child between fourteen and sixteen years of age not regularly and lawfully engaged in any useful employment or service.

3. The provisions of this section are intended to include all blind children, except such as may receive appointments under the provisions of article thirty-eight of this chapter. [Subdivision 3 added by L. 1912, ch. 710.]

§ 622. **When a boy is required to attend evening school.**— Every boy between fourteen and sixteen years of age, in a city of the first class or a city of the second class in possession of an employment certificate duly issued under the provisions of the labor law, who has not completed such course of study as is required for graduation from the elementary public schools of such city, and who does not hold either a certificate of graduation from the public elementary school or the preacademic certificate issued by the Regents or the certificate of the completion of an elementary course issued by the Education Department, shall attend the public evening schools of such city, or other evening schools offering an equivalent course of instruction, for not less than six hours each week, for a period of not less than sixteen weeks or upon a trade school a period of eight hours per week for sixteen weeks in each school or calendar year.

§ 623. **Instruction elsewhere than at a public school.**— If any such child shall so attend upon instruction elsewhere than at a public school, such instruction shall be at least substantially equivalent to the instruction given children of like age at the public school of the city or district in which such child resides; and such attendance shall be for at least as many hours each day thereof as are required of children of like age at public schools; and no greater total amount of holidays or vacations shall be deducted from such attendance during the period such attendance is required than is allowed in such public school to children of like age. Occasional absences from such attendance, not amounting to irregular attendance in the fair meaning of the term, shall be allowed upon such excuses only as would be allowed in like cases by the general rules and practice of such public school.

§ 624. **Duties of persons in parental relation to children.**— Every person in parental relation to a child within the compulsory school ages and in proper physical and mental condition to attend school, shall cause such child to attend upon instruction, as follows:

1. In cities and school districts having a population of five thousand or above, every child between seven and sixteen years of age as required by section six hundred and twenty-one of this act unless an employment certificate shall have been duly issued to such child under the provisions of the labor law and he is regularly employed thereunder.

2. Elsewhere than in a city or school district having a population of five thousand or above, every child between eight and sixteen years of age, unless such child shall have received an employment certificate duly issued under the provisions of the labor law and is regularly employed thereunder in a factory or mercantile establishment, business or telegraph office, restaurant, hotel, apartment house or in the distribution or transmission of merchandise or messages, or unless such child shall have received the school record certificate issued under section six hundred and thirty of this act and is regularly employed elsewhere than in the factory or mercantile establishment, business or telegraph office. restaurant, hotel, apartment house or in the distribution or transmission of merchandise or messages.

§ 625. **Penalty for failure to perform parental duty.**— A violation of section six hundred and twenty-four shall be a misdemeanor, punishable for the first offense by a fine not exceeding five dollars, or five days' imprisonment, and for each subsequent offense by a fine not exceeding fifty dollars, or by imprisonment not exceeding thirty days, or by both such fine and imprisonment. Courts of special session and police magistrates shall, subject to removal as provided in sections fifty-seven and fifty-eight of the Code of Criminal Procedure, have exclusive jurisdiction in the first instance to hear, try and determine charges of violations of this section within their respective jurisdictions.

§ 626. **Unlawful employment of children and penalty therefor.**— It shall be unlawful for any person, firm or corporation:

1. To *employe any child under fourteen years of age, in any business or service whatever, for any part of the term during which the public schools of the district or city in which the child resides are in session.

2. To employ, elsewhere than in a city of the first class or a city of the second class, in a factory or mercantile establishment, business or telegraph office, restaurant, hotel, apartment house or in the distribution or transmission of merchandise or messages, any child between fourteen and sixteen years of age who does not at the time of such employment present an employment certificate duly issued under the provisions of the labor law, or to employ any such child in any other capacity who does not at the time of such employment present a school record certificate as provided in section six hundred and thirty of this chapter.

3. To employ any child between fourteen and sixteen years of age in a city of the first class or a city of the second class who does not, at the time of such employment, present an employment certificate, duly issued under the provisions of the labor law.

§ 627. **Employer must display record certificate and evening certificate.**— The employer of any child between fourteen and sixteen years of age in a city of the first class or a city of the second class shall keep and shall display in the place where such child is employed, the employment certificate and also his evening school certificate issued by the school authorities of said city or by an authorized representative of such school authorities, certifying that the said boy is regularly in attendance at an evening school of said city as provided in section six hundred and thirty-one of this chapter.

§ 628. **Punishment for unlawful employment of children.**— Any person, firm, or corporation, or any officer, manager, superintendent or employee acting therefor, who shall employ any child contrary to the provisions of section six hundred and twenty-six hereof, shall be guilty of a misdemeanor, and the punishment therefor shall be for the first offense a fine of not less than twenty dollars nor more than fifty dollars; for a second, and each subsequent offense, a fine of not less than fifty dollars nor more than two hundred dollars.

Constitutionality affirmed in City of New York v. Chelsea Jute Mills, 43 Misc. 266.

§ 629. **Teachers must keep record of attendance.**—An accurate record of the attendance of all children between seven and sixteen years of age shall be kept by the teacher of every school, showing each day by the year, month,

*So in original.

day of the month and day of the week, such attendance, and the number of hours in each day thereof; and each teacher upon whose instruction any such child shall attend elsewhere than at school, shall keep a like record of such attendance. Such record shall, at all times, be open to the attendance officers or other person duly authorized by the school authorities of the city or district, who may inspect or copy the same; and every such teacher shall fully answer all inquiries lawfully made by such authorities, inspectors, or other persons, and a wilful neglect or refusal so to answer any such inquiry shall be a misdemeanor.

§ 630. School record certificate.— 1. A school record certificate shall contain a statement certifying that a child has regularly attended the public schools, or schools equivalent thereto, or parochial schools, for not less than one hundred and thirty days during the twelve months next preceding his fourteenth birthday or during the twelve months next preceding his application for such school record, and that he is able to read and write simple sentences in the English language, and has received during such period instruction in reading, writing, spelling, English grammar and geography, and is familiar with the fundamental operations of arithmetic up to and including fractions. Such record shall also give the date of birth and residence of the child as shown on the school records, and the name of the child's parents, guardian or custodian.

2. A teacher or superintendent to whom application shall be made for a school record certificate required under the provisions of the labor law shall issue a school record certificate to any child who, after due investigation and examination, may be found to be entitled to the same as follows:

a. In a city of the first class by the principal or chief executive of a school.

b. In all other cities and in school districts having a population of five thousand or more and employing a superintendent of schools, by the superintendent of schools only.

c. In all other school districts by the principal teacher of the school.

d. In each city or school district such certificate shall be furnished on demand to a child entitled thereto or to the Board or Commissioner of Health.

§ 631. Evening school certificate.— The school authorities of a city of the first class or a city of the second class, or officers designated by them, are hereby required to issue to a boy lawfully in attendance at an evening school, an evening school certificate at least once in each month during the months said evening school is in session and at the close of the term of said evening school, provided that said boy has been in attendance upon said evening school for not less than six hours each week for such number of weeks as will, when taken in connection with the number of weeks such evening school shall be in session during the remainder of the current or calendar year, make up a total attendance on the part of said boy in said evening school of not less than six hours per week for a period of not less than sixteen weeks or attendance upon a trade school for at least eight hours per week for not less than sixteen weeks. Such certificate shall state fully the period of time which the boy to whom it is issued was in attendance upon such evening school or trade school.

§ 632. Attendance officers.— 1. The school authorities of each city, union free school district, or common school district whose limits include in whole or in part an incorporated village, shall appoint and may remove at pleasure one or more attendance officers of such city or district, and shall fix their compensation and may prescribe their duties not inconsistent with this article and make rules and regulations for the performance thereof; and the superintendent of schools shall supervise the enforcement of this article within such city or school district.

2. The town board of each town shall appoint, subject to the written approval of the school commissioner of the district, one or more attendance officers, whose jurisdiction shall extend over all school districts in said town, and which are not by this section otherwise provided for, and shall fix their compensation, which shall be a town charge; and such attendance officers, appointed by said board, shall be removable at the pleasure of the school commissioner in whose commissioner district such town is situated.

§ 633. Arrest of truants.— 1. The attendance officer may arrest without a warrant any child between seven and sixteen years of age who is a truant from instruction upon which he is lawfully required to attend within the city or district of such attendance officer. He shall forthwith deliver the child so arrested to a teacher from whom such child is then a truant, or, in case of habitual and incorrigible truants, shall bring them before a police magistrate for commitment to a truant school as provided in section six hundred and thirty-five.

2. The attendance officer shall promptly report such arrest and the disposition which he makes of such child, to the school authorities of the said city or district where such child is lawfully required to attend upon instruction.

3. A truant officer in the performance of his duties may enter, during business hours, any factory, mercantile or other establishment within the city or school district in which he is appointed and shall be entitled to examine employment certificates or registry of children employed therein on demand.

§ 634. Interference with attendance officer.—Any person interfering with an attendance officer in the lawful discharge of his duties and any person owning or operating a factory, mercantile or other establishment who shall refuse on demand to exhibit to such attendance officer the registry of the children employed or the employment certificate of such children shall be guilty of a misdemeanor.

§ 635. Truant schools.— 1. The school authorities of any city or school district may establish schools, or set apart separate rooms in public school buildings, for children between seven and sixteen years of age, who are habitual truants from instruction upon which they are lawfully required to attend, or who are insubordinate or disorderly during their attendance upon such instruction, or irregular in such attendance. Such school or room shall be known as a truant school; but no person convicted of crimes or misdemeanors, other than truancy, shall be committed thereto.

2. School authorities may provide for the confinement, maintenance and instruction of such truants in such schools; and they, or the superintendent of schools in any city or school district, may, after reasonable notice to such child and the persons in parental relation to such child, and an opportunity for them to be heard, and with the consent in writing of the persons in parental relation to such child, order such child to attend such school, or to be confined and maintained therein, under such rules and regulations as such authorities may prescribe, for a period not exceeding two years; but in no case shall a child be so confined after he is sixteen years of age.

3. Such authorities may order such a child to be confined and maintained during such period in any private school, orphans' home or similar institution controlled by persons of the same religious faith as the persons in parental relation to such child, and which is willing and able to receive, confine and maintain such child, upon such terms as to compensation as may be agreed upon between such authorities and such private school, orphans' home or similar institution.

4. If the person in parental relation to such child shall not consent to either of such orders said person shall be proceeded against in court under section six hundred and twenty-five of this chapter by the school authorities or such officer as they may designate. In case the person in parental relation to such child establishes to the satisfaction of the court that such child is beyond his control such child shall be proceeded against as a disorderly person, and upon conviction thereof, if the child was lawfully required to attend a public school, the child shall be sentenced to be confined and maintained in such truant school for a period not exceeding two years; or if such child was lawfully required to attend upon instruction otherwise than at a public school, the child may be sentenced to be confined and maintained for a period not exceeding two years in such private school, orphans' home or other similar institutions, if there be one, controlled by persons of the same religious faith as the persons in parental relation to such child, which is willing and able to receive, confine and maintain such child for a reasonable compensation. Such confinement shall be conducted with a view to the improvement and to the restoration, as soon as practicable, of such child to the institution elsewhere, upon which he may be lawfully required to attend.

5. The authorities committing any such child, and in cities and districts having a superintendent of schools such superintendent shall have authority, in his discretion, to parole at any time any truant so committed by them.

6. Every child lawfully suspended from attendance upon instruction for more than one week, shall be required to attend such truant school during the period of such suspension.

7. The school authorities of any city or school district, not having a truant school, may contract with any other city or district having a truant school, for the confinement, maintenance and instruction therein of children whom such school authorities might require to attend a truant school, if there were one in their own city or district.

8. Industrial training shall be furnished in every such truant school.

9. The expense attending the commitment and cost of maintenance of any truant residing in any city, or district, employing a superintendent of schools shall be a charge against such city, or district, and in all other cases shall be a county charge.

§ 636. Enforcement of law and withholding the state moneys by Commissioner of Education.—1. The Commissioner of Education shall supervise the enforcement of this law and he may withhold one-half of all public school moneys from any city or district, which, in his judgment, wilfully omits and refuses to enforce the provisions of this article, after due notice, so often and so long as such wilful omission and refusal shall, in his judgment, continue.

2. If the provisions of this article are complied with at any time within one year from the date on which said moneys were withheld, the moneys so withheld shall be paid over by said Commissioner of Education to such district or city, otherwise forfeited to the state.

CERTAIN EMPLOYMENTS OF CHILDREN PROHIBITED.

PENAL LAW, CHAPTER 40 OF CONSOLIDATED LAWS.

§ 483. Endangering life or health of child.—A person who:

1. Wilfully causes or permits the life or limb of any child actually or apparently under the age of sixteen years to be endangered, or its health to be injured, or its morals to become depraved; or,

2. Wilfully causes or permits such child to be placed in such a situation or to engage in such an occupation that its life or limb is endangered, or its health is likely to be injured, or its morals likely to be impaired,

Is guilty of a misdemeanor.

[Subd. 3. Contributing to juvenile delinquency. Repealed by L. 1910, ch. 699.]

§ 485. Certain employment of children prohibited.—A person who employs or causes to be employed, or who exhibits, uses, or has in custody, or trains for the purpose of the exhibition, use or employment of, any child actually or apparently under the age of sixteen years; or who having the care, custody or control of such a child as parent, relative, guardian, employer or otherwise, sells, lets out, gives away, so trains, or in any way procures or consents to the employment, or to such training, or use, or exhibition of such child; or who neglects or refuses to restrain such child from such training, or from engaging or acting:

1. As a rope or wire walker, gymnast, wrestler, contortionist, rider or acrobat; or upon any bicycle or similar mechanical vehicle or contrivance; or,

2. In begging or receiving or soliciting alms in any manner or under any pretense, or in any mendicant occupation; or in gathering or picking rags, or collecting cigar stumps, bones or refuse from markets; or in peddling; or,

3. In singing; or dancing; or playing upon a musical instrument; or in a theatrical exhibition; or in any wandering occupation; or,

4. In any illegal, indecent or immoral exhibition or practice; or in the exhibition of any such child when insane, idiotic, or when presenting the

appearance of any deformity or unnatural physical formation or development; or,

5. In any practice or exhibition or place dangerous or injurious to the life, limb, health or morals of the child,

Is guilty of a misdemeanor.

But this section does not apply to the employment of any child as a singer or musician in a church, school or academy; or in teaching or learning the science or practice of music; or as a musician in any concert or in a theatrical exhibition, with the written consent of the mayor of the city, or the president of the board of trustees of the village where such concert or exhibition takes place. Such consent shall not be given unless forty-eight hours previous notice of the application shall have been served in writing upon the society mentioned in section four hundred and ninety-one of this chapter, if there be one within the county, and a hearing had thereon if requested, and shall be revocable at the will of the authority giving it. It shall specify the name of the child, its age, the names and residence of its parents or guardians, the nature, time, duration and number of performances permitted, together with the place and character of the exhibition. But no such consent shall be deemed to authorize any violation of the first, second, fourth or fifth subdivisions of this section.

Not an unconstitutional infringement of the parents' rights or the rights of the child 8 N. Y. Cr. 383; People v. Ewer, 141 N. Y. 129.

§ 486. Prohibited acts; destitute children.—Any child actually or apparently under the age of sixteen years who is found:

1. Begging or receiving or soliciting alms, in any manner or under any pretense; or gathering or picking rags, or collecting cigar stumps, bones or refuse from markets; or,

* * * * * * * * *

5. Coming within any of the descriptions of children mentioned in section four hundred and eighty-five,

Must be arrested and brought before a proper court or magistrate, who may commit the child to any incorporated charitable reformatory, or other institution, and when practicable, to such as is governed by persons of the same religious faith as the parents of the child, or may make any disposition of the child such as now is, or hereafter may be authorized in the cases of vagrants, truants, paupers or disorderly persons, but such commitment shall, so far as practicable, be made to such charitable or reformatory institutions.

If it shall appear to the board of managers, trustees or other officers in charge of said incorporated charitable, reformatory or other institution to which any such child has been so committed that said child be incorrigible and that his or her presence therein is seriously detrimental to the welfare of the institution and other children therein, an application may be made to the court or magistrate who committed the said child to said institution, or to a justice of the supreme court in the judicial district in which said institution is located, for an order transferring said child to another incorporated charitable, reformatory or other institution, governed or controlled by persons of the same religious faith as the parents of the said child, when practicable, said institution or reformatory to be one designated by the state

board of charities for the receipt and detention of such incorrigible children. Such application shall be by petition signed by the officer or the person in charge of such institution and shall state the causes for seeking such transfer, and due notice of such application with a copy of the petition shall be served personally or by mail at least eight days before the hearing, on the parents or guardian of said child and the officer of the locality would be chargeable for the support of such child so transferred, and upon the hearing of said petition such court, magistrate or justice may grant such order of transfer if it appears to his satisfaction that the facts alleged are true and that such transfer should be made; and any child so transferred shall be confined in such institution to which such transfer shall be made with the same force and effect as the confinement in the institution in the first instance and under the same terms and conditions. [*As am'd by L.* 1912, *ch.* 169.]

§ 488. **Sending messenger boys to certain places.**—A corporation or person employing messenger boys who:

1. Knowingly places or permits to remain in a disorderly house, or in an unlicensed saloon, inn, tavern or other unlicensed place where malt or spirituous liquors or wines are sold, any instrument or device by which communication may be had between such disorderly house, saloon, inn, tavern or unlicensed place, and any office or place of business of such corporation or person; or,

2. Knowingly sends or permits any person to send any messenger boy to any disorderly house, unlicensed saloon, inn, tavern, or other unlicensed place, where malt or spirituous liquors or wines are sold, on any errand or business whatsoever except to deliver telegrams at the door of such house,

Is guilty of a misdemeanor, and incurs a penalty of fifty dollars to be recovered by the district attorney.

Compare § 161-a of the Labor Law, *ante*.

TAKING APPRENTICE WITHOUT GUARDIAN'S CONSENT.

§ 493. **Taking apprentice without consent of guardian.**—A person who takes an apprentice without having first obtained the consent of his legal guardian or unless a written agreement has been entered into as prescribed by law, is guilty of a misdemeanor.

For the law regulating apprenticeship, see under INDUSTRIAL EDUCATION, *post*.

PAYMENT OF WAGES TO MINORS.

THE DOMESTIC RELATIONS LAW, CHAPTER 14 OF THE CONSOLIDATED LAWS.

§ 72. **Payment of wages to minor; when valid.**—Where a minor is in the employment of a person other than his parent or guardian, payment to such minor of his wages is valid, unless such parent or guardian notify the employer in writing, within thirty days after the commencement of such service, that such wages are claimed by such parent or guardian, but whenever such notice is given at any time payments to the minor shall not be valid for services rendered thereafter.

HOURS OF LABOR.*

DRUG CLERKS

PUBLIC HEALTH LAW, CHAPTER 45 OF THE CONSOLIDATED LAWS.

§ 236. Working hours and sleeping apartments.—No apprentice or employee in any pharmacy or drug store shall be required or permitted to work more than seventy hours a week. Nothing in this section prohibits working six hours overtime any week for the purpose of making a shorter succeeding week, provided, however, that the aggregate number of hours in any such two weeks shall not exceed one hundred and thirty-two hours. The hours shall be so arranged that an employee shall be entitled to and shall receive at least one full day off in two consecutive weeks. No proprietor of any pharmacy or drug store shall require any clerk to sleep in any room or apartment in or connected with such store that does not comply with the sanitary regulations of the local board of health. [*As am'd by L.* 1911, *ch.* 630.]

§ 240. Revocation of license; misdemeanors; violations and penalties.—
* * * * * * * * *
The wilful and repeated violation of any of the provisions of this article or the rules is sufficient cause for the revocation of a license or certificate. The license or certificate revoked shall on formal notice be delivered immediately to the board.

Misdemeanors. It is a misdemeanor for
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9. Any proprietor of a pharmacy or drug store to require more than seventy working hours a week in other arrangement than that permitted by section two hundred and thirty-six; and for any proprietor of a pharmacy or drug store to violate the provisions of the same section in regard to sleeping apartments. [*As am'd by L.* 1910, *ch.* 422 *and L.* 1911, *ch.* 630.]

PUBLIC HOLIDAYS.

GENERAL CONSTRUCTION LAW, CHAPTER 22 OF THE CONSOLIDATED LAWS.

§ 24. Holidays; half-holiday.—The term holiday includes the following days in each year: The first day of January, known as New Year's day; the twelfth day of February, known as Lincoln's birthday; the twenty-second of February, known as Washington's birthday; the thirtieth day of May, known as Memorial day; the fourth day of July, known as Independence day; the first Monday of September, known as Labor day; the twelfth day of October, known as Columbus day, and the twenty-fifth day of December, known as Christmas day, and if either of such days is Sunday, the next day thereafter; each general election day and each day appointed by the president of the United States or by the governor of this state as a day of general

* Most of the legal restrictions upon the hours of labor are to be found in the Labor Law (articles 1, 6, 8 and 11, *ante*). See also under Public Works, *post*.

thanksgiving, general fasting and prayer, or other general religious observances. The term half-holiday includes the period from noon to midnight of each Saturday which is not a holiday. [*As am'd by L.* 1909, *ch.* 112.]

SUNDAY LABOR.

ARTICLE 192 OF PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 2143. Labor prohibited on Sunday.—All labor on Sunday is prohibited, excepting the works of necessity and charity. In works of necessity or charity is included whatever is needful during the day for the good order, health or comfort of the community.

§ 2144. Persons observing another day as a Sabbath.—It is a sufficient defense to a prosecution for work or labor on the first day of the week that the defendant uniformly keeps another day of the week as holy time, and does not labor on that day, and that the labor complained of was done in such manner as not to interrupt or disturb other persons in observing the first day of the week as holy time.

§ 2146. Trades, manufactures, and mechanical employments prohibited on Sunday.—All trades, manufactures, agricultural or mechanical employments upon the first day of the week are prohibited, except that when the same are works of necessity they may be performed on that day in their usual and orderly manner, so as not to interfere with the repose and religious liberty of the community.

§ 2147. Public traffic on Sunday.—All manner of public selling or offering for sale of any property upon Sunday is prohibited, except that articles of food may be sold and supplied at any time before ten o'clock in the morning, and except also that meals may be sold to be eaten on the premises where sold or served elsewhere by caterers; and prepared tobacco, milk, ice and soda-water in places other than where spirituous or malt liquors or wines are kept or offered for sale, and fruit, flowers, confectionery, newspapers, drugs, medicines and surgical appliances may be sold in a quiet and orderly manner at any time of the day. The provisions of this section, however, shall not be construed to allow or permit the public sale or exposing for sale or delivery of uncooked flesh foods, or meats, fresh or salt, at any hour or time of the day.

The prohibition of the sale of uncooked meat at any hour on Sunday is constitutional: People *ex rel.* Woodin v. Hagan, 36 Misc. 349.

§ 2153. Barbering on Sunday.—Any person who carries on or engages in the business of shaving, hair cutting or other work of a barber on the first day of the week, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than five dollars; and upon a second conviction for a like offense shall be fined not less than ten dollars and not more than twenty-five dollars, or be imprisoned in the county jail for a period of not less than ten days, nor more than twenty-five days, or be punishable by both such fine and such imprisonment at the discretion of the court or magistrate; provided, that in the village of Saratoga Springs, from the fifteenth day of June to the fifteenth day of September, inclusive, and in the city of New York throughout the year, barber shops or other places where a barber is engaged in shaving, hair cutting or other work of a barber, may be kept open, and the work of a barber may be performed therein until one o'clock of the afternoon of the first day of the week.

Held to be constitutional: People v. Havnor, 149 N. Y. 195 (1896).

VACATIONS OF PUBLIC EMPLOYEES.

ARTICLE 4 OF THE PUBLIC OFFICERS LAW, CHAPTER 47 OF THE CONSOLIDATED LAWS.

§ 71. Vacations for employees of the state and the several civil subdivisions thereof.— The executive officers of every public department, bureau, commission, or board of the state and of each county, city or other civil division thereof are authorized and empowered to grant to every employee under their supervision, who shall have been in such employ for at least one year, a vacation of not less than two weeks in each year, and for such further period of time as in the opinion and judgment of the executive officers, the duties, position, length of service and other circumstances may warrant, at such time as the executive officers may fix and during such vacation the said employee shall be allowed the same compensation as if actually employed. [*Added by L.* 1910, *ch.* 680.]

TITLE 3 OF CHAPTER 23 OF THE GREATER NEW YORK CHARTER.

§ 1567. The executive heads of the various departments are authorized and empowered to grant to every employee of the city of New York, or of any department or bureau thereof, and of the department of education, a vacation of not less than two weeks in each year and for such further period of time as the duties, length of service and other qualifications of an employee may warrant, at such time as the executive head of the department or any officer having supervision over said employee may fix, and for such time they shall be allowed the same compensation as if actually employed, except that no such vacation shall be granted to per diem employees for longer than two weeks and only during the month of June, July and August. [*Added by L.* 1910, *ch.* 679.]

The granting of vacations under this section is permissive, not mandatory: People *ex rel.* Denery v. Drummond, in Supreme Court in New York City, Aug., 1910.

DUTIES AND LIABILITIES OF EMPLOYERS AND EMPLOYEES.

LIABILITY OF RAILWAY COMPANIES.*

Railroad Law, Chapter 49 of the Consolidated Laws.

§ 64. Injuries to employees.—In all actions against a railroad corporation, foreign or domestic, doing business in this state, or against a receiver thereof, for personal injury to, or death resulting from personal injury of any person, while in the employment of such corporation, or receiver, arising from the negligence of such corporation or receiver or of any of its or his officers or employees, every employee, or his legal representatives, shall have the same rights and remedies for an injury, or for death, suffered by him, from the act or omission of such corporation or receiver or of its or his officers or employees, as are now allowed by law, and, in addition to the liability now existing by law, it shall be held in such actions that persons engaged in the service of any railroad corporation, foreign or domestic, doing business in this state, or in the service of a receiver thereof, who are intrusted by such corporation or receiver, with the authority of superintendence, control or command of other persons in the employment of such corporation or receiver, or with the authority to direct or control any other employee in the performance of the duty of such employee, or who have, as a part of their duty, for the time being, physical control or direction of the movement of a signal, switch, locomotive engine, car, train or telegraph office, are vice-principals of such corporation or receiver, and are not fellow-servants of such injured or deceased employee. If an employee, engaged in the service of any such railroad corporation, or of a receiver thereof, shall receive any injury by reason of any defect in the condition of the ways, works, machinery, plant, tools or implements, or of any car, train, locomotive or attachment thereto belonging, owned or operated, or being run and operated by such corporation or receiver, when such defect could have been discovered by such corporation or receiver, by reasonable and proper care, tests or inspection, such corporation or receiver shall be deemed to have had knowledge of such defect before and at the time such injury is sustained; and when the fact of such defect shall be proved upon the trial of any action in the courts of this state, brought by such employee or his legal representatives, against any such railroad corporation or receiver, on account of such injuries so received, the same shall be prima facie evidence of negligence on the part of such corporation or receiver. This section shall not affect actions or causes of action existing on May twenty-ninth, nineteen hundred and six; and no contract, receipt, rule or regulation between an employee and a railroad corporation or receiver, shall exempt or limit the liability of such corporation or receiver from the provisions of this section.

This section applies to street surface railroads: Kent v. Jamestown Street Ry. Co., 205 N. Y. 361.

* For the General Employers' Liability Law, see Article 14 of the Labor Law, *ante*.

DAMAGES FOR INJURIES CAUSING DEATH.

ARTICLE I OF THE CONSTITUTION.

Section 18. The right of action now existing to recover damages for injuries resulting in death shall never be abrogated; and the amount recoverable shall not be subject to any statutory limitation.

CODE OF CIVIL PROCEDURE.

§ 1902. The executor or administrator of a decedent, who has left, him or her surviving, a husband, wife, or next of kin, may maintain an action to recover damages for a wrongful act, neglect, or default, by which the decedent's death was caused, against a natural person who, or a corporation which, would have been liable to an action in favor of the decedent, by reason thereof, if death had not ensued. Such an action must be commenced within two years after the decedent's death.

CRIMINAL LIABILITY FOR NEGLIGENCE.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS, § 1052 (PART).

Negligent use of machinery.—A person who, by any act of negligence or misconduct in a business or employment in which he is engaged, or in the use or management of any machinery, animals, or property of any kind, intrusted to his care, or under his control, or by any unlawful, negligent or reckless act, not specified by or coming within the foregoing provisions of this article, or the provisions of some other statute, occasions the death of a human being, is guilty of manslaughter in the second degree.

Persons in charge of steamboats.—A person having charge of a steamboat used for the conveyance of passengers, or of a boiler or engine thereof, who, from ignorance, recklessness, or gross neglect, or for the purpose of excelling any other boat in speed, creates, or allows to be created, such an undue quantity of steam as to burst the boiler, or other apparatus in which it is generated or contained, or to break any apparatus or machinery connected therewith, whereby the death of a human being is occasioned, is guilty of manslaughter in the second degree.

Persons in charge of steam engines.—An engineer or other person, having charge of a steam boiler, steam engine, or other apparatus for generating or applying steam, employed in a boat or railway, or in a manufactory, or in any mechanical works, who wilfully, or from ignorance or gross neglect, creates or allows to be created, such an undue quantity of steam as to burst the boiler, engine, or apparatus, or to cause any other accident, whereby the death of a human being is produced, is guilty of manslaughter in the second degree.

§ 1893. Mismanagement of steam boilers.—An engineer or other person having charge of a steam boiler, steam engine, or other apparatus for generating or employing steam, employed in a railway, manufactory, or other mechanical works, who, wilfully or from ignorance or gross neglect, creates or allows to be created such an undue quantity of steam as to burst the boiler, engine or apparatus, or cause any other accident whereby human life is endangered, is guilty of a misdemeanor.

See also §§ 1891, 1892.

EMPLOYEES NOT TO DISPOSE OF MATERIAL FURNISHED.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 1310. **Conversion of materials furnished to a person for purpose of being manufactured.**—Any person who shall wilfully pawn, pledge, sell or convert to his or her own use any material furnished to him or her for the purpose of being manufactured, if the same be of the value of more than twenty-five dollars, shall, upon conviction thereof, be adjudged guilty of grand larceny, and imprisoned in a state prison for a term not exceeding five years, but if the same be of the value of twenty-five dollars or under, he or she shall, upon conviction, be adjudged guilty of petit larceny, and be punished by imprisonment in a county jail not exceeding six months, or by fine not exceeding one hundred dollars, or by both such fine and imprisonment.

Nothing in this section contained shall be deemed or held to discharge any mechanic's lien, or right of lien in favor of any employee as now recognized by law.

CORRUPT INFLUENCING OF AGENTS, EMPLOYEES OR SERVANTS.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 439. **Corrupt influencing of agents, employees or servants.**—Whoever gives, offers or promises to an agent, employee or servant, any gift or gratuity whatever, without the knowledge and consent of the principal, employer or master of such agent, employee or servant, with intent to influence his action in relation to his principal's, employer's or master's business; or an agent, employee or servant who without the knowledge and consent of his principal, employer or master, requests or accepts a gift or gratuity or a promise to make a gift or to do an act beneficial to himself, under an agreement or with an understanding that he shall act in any particular manner to his principal's, employer's or master's business; or an agent, employee or servant, who, being authorized to procure materials, supplies or other articles either by purchase or contract for his principal, employer or master, or to employ service or labor for his principal, employer or master, receives directly or indirectly, for himself or for another, a commission, discount or bonus from the person who makes such sale or contract, or furnishes such materials, supplies or other articles, or from a person who renders such service or labor; and any person who gives or offers such an agent, employee or servant such commission, discount or bonus shall be guilty of a misdemeanor and shall be punished by a fine of not less than ten dollars nor more than five hundred dollars, or by such fine and by imprisonment for not more than one year.

Cf. "Bribery of labor representatives," under TRADE UNIONS, *post.*

POLITICAL AND LEGAL RIGHTS AND PRIVILEGES OF WORKINGMEN.

ALLOWING TIME FOR EMPLOYEES TO VOTE WITHOUT LOSS OF PAY.

Election Law, Chapter 17 of the Consolidated Laws.

§ 365. **Time allowed employees to vote.**—Any person entitled to vote at a general election held within this state, shall on the day of such election be entitled to absent himself from any service or employment in which he is then engaged or employed, for a period of two hours, while the polls of such election are open. If such voter shall notify his employer before the day of such election of such intended absence, and if thereupon two successive hours for such absence shall be designated by the employer, and such absence shall be during such designated hours, or if the employer upon the day of such notice makes no designation, and such absence shall be during any two consecutive hours while such polls are open, no deduction shall be made from the usual salary or wages of such voter, and no other penalty shall be imposed upon him by his employer by reason of such absence. This section shall be deemed to include all employees of municipalities.

Penal Law, Chapter 40 of the Consolidated Laws.

§ 759. **Refusal to permit employees to attend election.**—A person or corporation who refuses to an employee entitled to vote at an election or town meeting, the privilege of attending thereat, as provided by the election law, or subjects such employee to a penalty or reduction of wages because of the exercise of such privilege, is guilty of a misdemeanor.

TO PREVENT EMPLOYERS FROM COERCING EMPLOYEES IN THEIR EXERCISE OF THE SUFFRAGE.

Penal Law, Chapter 40 of the Consolidated Laws.

§ 772. **Duress and intimidation of voters.**—Any person or corporation who directly or indirectly:

1. Uses or threatens to use any force, violence or restraint, or inflicts or threatens to inflict any injury, damage, harm or loss, or in any other manner practices intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting at any election or to vote or refrain from voting for or against any particular person or for or against any proposition submitted to voters at such election, or to place or cause to be placed or refrain from placing or causing to be placed his name upon a registry of voters, or on account of such person having voted or refrained from voting at such election, or having voted or refrained from voting for or against any particular person or persons, or for or against any proposition submitted to voters at such election, or having registered or refrained from registering as a voter; or,

2. By abduction, duress or any forcible or fraudulent device or contrivance whatever impedes, prevents or otherwise interferes with the free exercise of the elective franchise by any voter, or compels, induces or prevails upon any voter to give or refrain from giving his vote for or against any particular person at any election; or,

3. Being an employer pays his employees the salary or wages due in "pay envelopes," upon which there is written or printed any political motto, device or argument containing threats, express or implied, intended or calculated to influence the political opinions or actions of such employees, or within ninety days of a general election puts or otherwise exhibits in the establishment or place where his employees are engaged in labor, any handbill or placard containing any threat, notice or information, that if any particular ticket or candidate is elected or defeated, work in his place or establishment will cease, in whole or in part, his establishment be closed up, or the wages of his employees reduced, or other threats, express or implied, intended or calculated to influence the political opinions or actions of his employees,

Is guilty of a misdemeanor, and if a corporation shall in addition forfeit its charter.

EXEMPTION OF MECHANICS' TOOLS FROM ATTACHMENT.

CODE OF CIVIL PROCEDURE (CHAPTER 13, TITLE 2, ARTICLE I).

§ 1390. The following personal property, when owned by a householder is exempt from levy and sale by virtue of an execution, and each movable article thereof continues to be so exempt, while the family, or any of them, are removing from one residence to another:

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6. The tools and implements of a mechanic, necessary to the carrying on of his trade, not exceeding in value twenty-five dollars.

§ 1391. In addition to the exemptions, allowed by the last section, necessary household furniture, working tools and team, professional instruments, furniture and library, not exceeding in value two hundred and fifty dollars, together with the necessary food for the team, for ninety days, are exempt from levy and sale by virtue of an execution, when owned by a person, being a householder, or having a family for which he provides, except where the execution is issued upon a judgment, recovered wholly upon one or more demands, either for work performed in the family as a domestic or for the purchase money of one or more articles, exempt as prescribed in this or the last section. Where a judgment has been recovered and where an execution issued upon said judgment has been returned wholly or partly unsatisfied, and where any wages, debts, earnings, salary, income from trust funds or profits are due and owing to the judgment debtor or shall thereafter become due and owing to him, to the amount of twelve dollars or more per week, the judgment creditor may apply to the court in which said judgment was recovered or the court having jurisdiction of the same without notice to the judgment debtor and upon satisfactory proof of such facts by affidavits or otherwise, the court, if a court not of record, a judge or justice thereof, must issue, or if a court of record, a judge or justice must grant an order directing that an execution issue against the wages, debts, earnings, salary, income from trust funds or profits of said judgment debtor, and on presentation of such execution by the officer to whom delivered for collection to the person or persons from whom such wages, debts, earnings, salary, income from trust funds or profits are due and owing, or may thereafter become due and owing to the judgment debtor, said execution shall become a lien and a continuing levy upon the wages, earnings, debts, salary, income from trust

funds or profits due or to become due to said judgment debtor to the amount specified therein which shall not exceed ten per centum thereof, and said levy shall be a continuing levy until said execution and the expenses thereof are fully satisfied and paid or until modified as hereinafter provided, but only one execution against the wages, debts, earnings, salary, income from trust funds or profits of said judgment debtor shall be satisfied at one time and where more than one execution has been issued or shall be issued pursuant to the provisions of this section against the same judgment debtor, they shall be satisfied in the order of priority in which such executions are presented to the person or persons from whom such wages, debts, earnings, salary, income from trust funds or profits are due and owing. It shall be the duty of any person or corporation, municipal or otherwise, to whom said execution shall be presented, and who shall at such time be indebted to the judgment debtor named in such execution, or who shall become indebted to such judgment debtor in the future, and while said execution shall remain a lien upon said indebtedness to pay over to the officer presenting the same, such amount of such indebtedness as such execution shall prescribe until said execution shall be wholly satisfied and such payment shall be a bar to any action therefor by any such judgment debtor. If such person or corporation, municipal or otherwise, to whom said execution shall be presented shall fail, or refuse to pay over to said officer presenting said execution, the percentage of said indebtedness, he shall be liable to an action therefor by the judgment creditor named in such execution, and the amount so recovered by such judgment creditor shall be applied towards the payment of said execution. Either party may apply at any time to the court from which such execution shall issue, or to any judge or justice issuing the same, or to the county judge of the county, and in any county where there is no county judge, to any justice of the city court upon such notice to the other party as such court, judge, or justice shall direct for a modification of said execution, and upon such hearing the said court, judge or justice may make such modification of said execution as shall be deemed just, and such execution as so modified shall continue in full force and effect until fully paid and satisfied, or until further modified as herein provided. This section, so far as it relates to wages and salary, due and owing or to become due and owing to the judgment debtor, shall not apply to judgments recovered more than ten years prior to September first, nineteen hundred and eight, and any execution heretofore issued upon such judgments pursuant to an order heretofore granted under this section shall, when this act takes effect, cease to be a lien and continuing levy upon wages and salary thereafter to become due and owing to the judgment debtor. [*As am'd by L.* 1911, *chs.* 489 *and* 532.]

The above section exempts from attachment wages of less than $12 per week. Section 1879 of the Code of Civil Procedure also exempts from execution on judgment creditor's action "the earnings of the judgment debtor for his personal services, rendered within sixty days next before the commencement of the action, where it is made to appear, by his oath, or otherwise that those earnings are necessary for the use of a family, wholly or partly supported by his labor."

This section applies to state employees: See section 2-a of the State Finance Law (which provides also for semi-monthly pay for such employees and which was added in 1910) given under PUBLIC WORK AND PUBLIC CONTRACTS, *po*

Prior to the addition of this section to the Finance Law, the garnishee law had been held not to apply to state employees: Osterhoudt v. Stade, 133 App. Div. 83.

TAKING SECURITY FOR USURIOUS LOANS.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 2400. **Taking security upon certain property for usurious loans.**—A person who takes security, upon any household furniture, sewing machines, plate or silverware in actual use, tools or implements of trade, wearing apparel or jewelry, for a loan or forbearance of money, or for the use or sale of his personal credit, conditioned upon the payment of a greater rate than six per centum per annum or, who as security for such loan, use or sale of personal credit as aforesaid, makes a pretended purchase of such property from any person, upon the like condition, and permits the pledger to retain the possession thereof is guilty of a misdemeanor.

ASSIGNMENT OF WAGES.

PERSONAL PROPERTY LAW, CHAPTER 41 OF THE CONSOLIDATED LAWS.

§ 42. **Regulating loans of money on salaries.**—1. Any person or persons, firm, corporation or company, who shall after the passage of this act, make to any employee an advance of money, or loan, on account of salary or wages due or to be earned in the future by such individual, upon an assignment or note covering such loans or advances, shall not acquire any right to collect or attach the same while in the possession or control of the employer, unless such note or assignment is dated on the same day on which such loan is actually made, and unless within a period of three days after such loan and assignment or note are actually made the party making such loan or loans and taking such assignment or notes shall have filed with the employer or employers of the individual or individuals so assigning his present or prospective salary or wages, a duly authenticated copy of such agreement or assignment or notes under which the claim is made. The day of making a loan or advance within the meaning of this act shall be deemed to be the day when the money is delivered to the borrower, and the subsequent execution of an instrument by virtue of a power of attorney shall not be deemed to affect the time of the actual making of such loan or advance.

2. No action shall be maintained in any of the courts of this state, brought by the holder of any such contract, assignment or notes, given by an employee for moneys loaned on account of salary or wages, in which it is sought to charge in any manner the employer or employers, unless a copy of such agreement, assignment or notes, together with a notice of lien, was duly filed with the employer or employers of the person making such agreement, assignment or notes, by the person or persons, corporation or company making said loan within three days after the said loan was actually made and the said agreement, assignment or notes were given as provided in the previous section.

3. Every person, firm or corporation engaged in or seeking to engage in the business of loaning money upon security of an assignment of salary or wages either earned or to be earned shall, on or before the first day of July next ensuing the passage of this act, file with the clerk of the county in which said person, firm or corporation has its place of business or transacts business a statement under oath containing the name and residence of the individual; or in case of a firm, the names and residences of the

partners; or in the case of a corporation, the names and residences of the officers and directors, managers or trustees of such corporation; and the place or places where said business is transacted by such an individual, firm or corporation. After July the first next ensuing the passage of this act it shall be unlawful to engage in the business of loaning money in the manner set forth in this act without, prior to engaging in such business, filing a statement as provided in this act.

4. The several county clerks of this state shall keep an alphabetical index of all persons, firms or corporations filing certificates provided for herein, and for the indexing and filing of such certificates, they shall receive a fee of twenty-five cents. A copy of such certificate, duly certified to by the county clerk in whose office the same was filed, shall be presumptive evidence in all courts of law in this state of the facts therein contained.

5. After the passage of this act, no persons shall directly or indirectly receive or accept for the use and sale of his personal credit or for making any advance or loan of money, either wholly or partly in anticipation of salary or wages due or to be earned, a greater sum than at the rate of eighteen per centum per annum on the amount of such loan or advance, either as a bonus, interest or otherwise, or under the guise of a charge for investigating the status of a person applying for such loan or advance, drawing of papers or other service in connection with such loan or advance, except such charges as are now permitted by section three hundred and eighty of chapter twenty-five of the laws of nineteen hundred and nine, known as the "general business law."

6. Every person, firm, corporation, director, agent, officer or member thereof who shall violate any provision of this act, directly or indirectly, or assent to such violation, shall be guilty of a misdemeanor. [*As am'd by L.* 1911, *ch.* 626.]

See also § 13 of the Labor Law, *ante*.

ORDINARY EXEMPTIONS NOT VALID AGAINST WAGE DEBTS.

LAWS OF 1902, CHAPTER 580.

AN ACT in relation to the municipal court of the city of New York, its officers and marshals.

§ 274. Judgment in favor of wage earners.— In an action, brought in the municipal court, by a journeyman, laborer, or other employee whose employment answered to the general description of wage earner, for services rendered or wages earned in such capacity, if the plaintiff recovers a judgment for a sum not exceeding fifty dollars, exclusive of costs, and the action shall have been brought within two months after the cause of action accrued, no property of the defendant is exempt from levy and sale by virtue of an execution against property, issued thereupon; and, if such an execution is returned wholly or partly unsatisfied, the clerk must, upon the application of the plaintiff, issue an execution against the person of the defendant for the sum remaining uncollected, if the indorsement required by this act to the effect that defendant was liable to arrest was complied with. A defendant arrested by virtue of an execution so issued against his person, must be actually confined in the jail, and is not entitled to the liberties thereof; but he must

be discharged after having been so confined for fifteen days. After his discharge another execution against his person cannot be issued upon the judgment, but the judgment creditor may enforce the judgment against property as if the execution, from which the judgment debtor is discharged, has been returned, without his being taken. [*As am'd by L.* 1907, *ch.* 425.]

MAKING EMPLOYEES PREFERRED CREDITORS.

DEBTOR AND CREDITOR LAW, CHAPTER 12 OF THE CONSOLIDATED LAWS.

§ 27. **Wages preferred claims.**— In all distribution of assets under all assignments made in pursuance of this article, the wages or salaries actually owing to the employees of the assignor or assignors at the time of the execution of the assignment for services rendered within one year prior to the execution of the assignment, shall be preferred before any other debt; and should the assets of the assignor or assignors not be sufficient to pay in full all the claims preferred, pursuant to this section, they shall be applied to the payment of the same pro rata to the amount of each such claim.

Cf. § 9 of the Labor Law, "Payment of wages by receivers," *ante;* and the Lien Law, ch. 38 of the Consolidated Laws.

The statute is constitutional: 104 N. Y. 606.

LIABILITY OF STOCKHOLDERS FOR WAGE DEBTS.

STOCK CORPORATION LAW, CHAPTER 59 OF THE CONSOLIDATED LAWS.

§ 56. Liabilities of stockholders.— Every holder of capital stock not fully paid, in any stock corporation, shall be personally liable to its creditors, to an amount equal to the amount unpaid on the stock held by him for debts of the corporation contracted while such stock was held by him. As to existing corporations the liability imposed by this section shall be in lieu of the liability imposed upon stockholders of any existing corporation, under any general or special law, excepting laws relating to moneyed corporations, and corporations and associations for banking purposes, on account of any indebtedness hereafter contracted or any stock hereafter issued; but nothing in this section contained shall create or increase any liability of stockholders of any existing corporation under any general or special law.

§ 57. Liabilities of stockholders to laborers, servants or employees.— The stockholders of every stock corporation shall jointly and severally be personally liable for all debts due and owing to any of its laborers, servants or employees other than contractors, for services performed by them for such corporation. Before such laborer, servant or employee shall charge such stockholder for such services, he shall give him notice in writing, within thirty days after the termination of such services, that he intends to hold him liable, and shall commence an action therefor within thirty days after the return of an execution unsatisfied against the corporation upon a judgment recovered against it for services.

§ 58. Non-liability in certain cases.— No person holding stock in any corporation as collateral security, or as executor, administrator, guardian or trustee, unless he shall have voluntarily invested the trust funds in such stock, shall be personally subject to liability as a stockholder; but the person pledging such stock shall be considered the holder thereof and shall be liable as stockholder, and the estates and funds in the hands of such executor, administrator, guardian or trustee shall be liable in the like manner and

to the same extent as the testator or intestate, or the ward or person interested in such trust fund would have been, if he had been living and competent to act and held the same stock in his own name, unless it appears that such executor, administrator, guardian or trustee voluntarily invested the trust funds in such stocks, in which case he shall be personally liable as a stockholder.

LIABILITY OF RAILROAD CORPORATIONS TO EMPLOYEES OF CONTRACTORS FOR WAGE DEBTS.

RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS.

§ 50. Liability of corporation to employees of contractor.—An action may be maintained against any railroad corporation by any laborer for the amount due him from any contractor for the construction of any part of its road, for ninety or any less number of days' labor performed by him in constructing such road, if within twenty days thereafter a written notice shall have been served upon the corporation, and the action shall have been commenced after the expiration of ten days and within six months after the service of such notice, which shall contain a statement of the month and particular days upon which the labor was performed and for which it was unpaid, the price per day, the amount due, the name of the contractor from whom due, and the section upon which performed, and shall be signed by the laborer or his attorney and verified by him to the effect that of his own knowledge the statements contained in it are true. The notice shall be served by delivering the same to an engineer, agent or superintendent having charge of the section of the road, upon which the labor was performed, personally, or by leaving it at his office or usual place of business with some person of suitable age or discretion; and if the corporation has no such agent, engineer or superintendent, or in case he can not be found and has no place of business open, service may in like manner be made on any officer or director of the corporation.

See further Lien Law, § 6, "Liens for labor on railroad"; also § 145 of the Canal Law providing security for wages of laborers on canals, *post*.

Laborers employed by sub-contractors are protected by this act (42 Hun 53).

NO COURT FEES REQUIRED IN CERTAIN SUITS FOR WAGES.

LAWS OF 1902, CHAPTER 580.

AN ACT in relation to the municipal court of the city of New York, its officers and marshals.

§ 44. Where employee is party.—When an action is brought by an employee against an employer for services performed by such employee, male or female, the clerk of the said municipal court in the district in which the action is brought, shall issue a free summons when the plaintiff's demand is less than fifty dollars and the plaintiff is a resident of the city of New York, and proof by the plaintiff's own affidavit that he has a good and meritorious cause of action and of the nature of such action and of said plaintiff's residence, and whether previous application therefor has been made, shall be duly presented to and filed with the clerk of the municipal court where such action shall be brought and he shall not demand or receive any fee whatsoever from the plaintiff or his agents or attorneys in such action, unless the plaintiff shall demand a trial jury, in which case the plaintiff must pay to the clerk

of the municipal court where such action shall be pending the sum of four dollars and fifty cents.

§ 340. Costs in action by working woman.—In an action brought to recover a sum of money for wages earned by a female employee, other than a domestic servant; or for material furnished by such an employee, in the course of her employment, or in or about the subject-matter thereof, or for both, the plaintiff, if entitled to costs, may, in the discretion of the court, be allowed the sum of ten dollars as costs, in addition to the costs allowed in this court, unless the amount of damages recovered is less than ten dollars; in which case, the plaintiff may, in the discretion of the court, be allowed the sum of five dollars as such additional costs. When the employee is the plaintiff in such an action, she is entitled upon a settlement thereof, to the full amount of costs, which she would have recovered, if judgment had been rendered in her favor, for the sum received by her upon the settlement. [*As am'd by L.* 1912, *ch.* 468.]

§ 348. Employee's action; no fees.—When the action is brought by an employee against an employer for services performed by such employee, male or female, the clerks of this court shall not demand or receive any fees whatsoever from the plaintiff or his agents or attorneys in such action, if the plaintiff shall present proof by his own affidavit that his demand is less than fifty dollars, that he is a resident of the city of New York, that he has a good and meritorious cause of action against the defendant, and the nature thereof; that he has made either a written or a personal demand upon the defendant or his agent or representative, for payment thereof, and that payment was refused. Except that if the plaintiff shall demand a trial by jury, he must pay to the clerk the fees therefor prescribed in this act.

Sec. 274 of the Municipal Code provides for body executions against employers whose property is insufficient to satisfy judgments in wage suits. (See "Ordinary exemptions not valid against wage debts," *ante.*)

MARRIED WOMAN'S RIGHT OF ACTION FOR WAGES, ETC.

DOMESTIC RELATIONS LAW, CHAPTER 14 OF THE CONSOLIDATED LAWS.

§ 60. Married woman's right of action for wages.—A married woman shall have a cause of action in her own sole and separate right for all wages, salary, profits, compensation or other remuneration for which she may render work, labor or services, or which may be derived from any trade, business or occupation carried on by her, and her husband shall have no right of action therefor unless she or he with her knowledge and consent has otherwise expressly agreed with the person obligated to pay such wages, salary, profits, compensation or other remuneration. In any action or proceeding in which a married woman or her husband shall seek to recover wages, salary, profits, compensation or other remuneration for which such married woman has rendered work, labor or services or which was derived from any trade, business or occupation carried on by her or in which the loss of such wages, salary, profits, compensation or other remuneration shall be an item of damage claimed by a married woman or her husband, the presumption of law in all such cases shall be that such married woman is alone entitled thereto, unless the contrary expressly appears. This section shall not affect any right, cause of action or defense existing prior to May seventeenth, nineteen hundred and five.

PUBLIC WORK AND CONTRACTS.

[Besides sections 3 and 14 of the Labor Law, *ante*, there is on the statute books a large body of laws for the regulation of wages, hours, etc., of persons employed on public work. Of this legislation only a few examples can be reproduced in this compilation. In addition to the statutes respecting employees of state prisons and armories, the Insanity Law (ch. 27 of the Consolidated Laws) contains an extremely detailed schedule of wages and salaries (*cf.* Report of the Commissioner of Labor, 1904, p. 105). Of the numerous laws fixing the terms of employment of municipal employees, again, only one example is here printed — that of the street cleaners of New York City. Nearly every city charter contains provisions as to the hours of work, compensation, etc., of policemen, firemen, and other employees, while the larger cities have established, through action of the Legislature, retirement funds or service pensions. An example of the latter may be seen in the provision for street cleaners' pensions in New York City given below. Such privileges are deemed to counterbalance the loss of certain constitutional rights upon entrance in the public service; firemen, for example, having no right to become members of an association that has for its object the influencing of legislation (People *ex rel.* Clifford v. Scannell, 74 App. Div. 406). The validity of this legislation has never been successfully challenged, so far as it relates to direct employment by public authorities. Public work done by contract, however, has been distinguished by the courts from work done by the employees of public authorities, but the amendment of the Constitution of 1905 brought such work under the authority of legislative enactment.]

EMPOWERING THE LEGISLATURE TO REGULATE THE CONDITIONS OF EMPLOYMENT ON PUBLIC WORK.

CONSTITUTION OF THE STATE OF NEW YORK, ARTICLE XII.

Section 1. It shall be the duty of the Legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments and in contracting debt by such municipal corporations; and the Legislature may regulate and fix the wages or salaries, the hours of work or labor, and make provision for the protection, welfare and safety of persons employed by the State or by any county, city, town, village or other civil division of the State, or by any contractor or sub-contractor performing work, labor or services for the State, or for any county, city, town, village or other civil division thereof. [*As amended in* 1905.]

LABORERS EMPLOYED IN THE STATE SERVICE.

CIVIL SERVICE LAW, CHAPTER 7 OF THE CONSOLIDATED LAWS.

§ 10. **Rules for the classified state service.** * * * No examination or registration shall be required of persons to be employed as laborers in the state service. * * * * * * * * * * *

Cf. § 18 below, requiring registration of laborers for *municipal* employment.

SEMI-MONTHLY PAYMENT OF WAGES TO STATE EMPLOYEES.

STATE FINANCE LAW, CHAPTER 56 OF THE CONSOLIDATED LAWS.

§ 2-a. The salaries of all officers of the state, and the wages of all employees thereof shall be due from and payable by the state twice each month, on the first and sixteenth days thereof, except where such days fall

upon Sunday or a legal holiday when such payments shall be made upon the succeeding business day. Said salaries and wages shall be subject to all the provisions of section thirteen hundred and ninety-one of the code of civil procedure applicable to any wages, debts, earnings or salary, as if the state and the said wages and salary due and payable by it had been particularly designated therein. The provisions of this section shall be deemed to supersede any other provision of this chapter or of any general or special law inconsistent herewith. [*Added by L.* 1910, *ch.* 317.]

FIXING THE COMPENSATION OF EMPLOYEES OF STATE PRISONS.

PRISON LAW, CHAPTER 43 OF THE CONSOLIDATED LAWS.

§ 114. Compensation of other officers.— The superintendent of state prisons shall, from time to time, prescribe the compensation of the other officers of said prisons, but the compensation so fixed and prescribed for the following officers in each of such prisons shall not in any case exceed the rate of an annual salary, as follows: To the principal keeper, two thousand dollars; to the kitchen-keeper, store-keeper, hall-keeper, yard-keeper and sergeant of the guard, each twelve hundred dollars; to the state detective at Sing Sing prison, eighteen hundred dollars. The compensation of guards and attendants in prison hospitals shall be as follows: For the first year's service, eight hundred dollars; for the second year's service, nine hundred dollars; for the third year's service, ten hundred dollars; for the fourth year's service, eleven hundred dollars; for the fifth year's service, and thereafter, twelve hundred dollars. [*As am'd by L.* 1912, *ch.* 50.]

LABORERS AND MECHANICS IN STATE ARMORIES.

MILITARY LAW, CHAPTER 36 OF THE CONSOLIDATED LAWS.

§ 189. Compensation of employees in armories.— The persons appointed under the provisions of the two preceding sections shall receive compensation for the time actually and necessarily employed in their duties, to be fixed by the officer appointing such persons as follows: When employed in armories or arsenals located in cities, armorers, janitors and engineers not to exceed four dollars per day, unless the city has a population of less than fifty thousand, in which case such compensation shall not exceed three dollars per day, and not to exceed three dollars per day in armories or arsenals not located in cities; an armorer, janitor, engineer or laborer appointed by the commanding officer of an organization located in a city who under orders duly issued by such officer performs the whole or any part of his duties outside the limits of such city shall receive the compensation provided for an armorer, janitor, engineer or laborer employed in an armory located in such city; laborers not to exceed two dollars per day, except in cities having a population of fifty thousand or over, and in counties adjoining cities of the first class, not to exceed three dollars per day. An armorer employed in an arsenal or armory having two hundred thousand or more square feet of floor surface and occupied by a regiment may in the discretion of the officer appointing, receive additional compensation not to exceed five dollars per day. The chief engineer in an armory having over two hundred thousand square feet of floor surface occupied by a regiment and lighted by electricity

produced by machinery operated within such armory, not to exceed five dollars per day. The compensation, as certified to by the officer appointing such persons, under the provisions of the two preceding sections, shall be paid semi-monthly upon the certificate of such officer, and shall be a county charge upon the county in which such armory or arsenal is situated; and shall be levied, collected and paid in the same manner as other county charges are levied, collected and paid. A commissioned officer in active service shall not be eligible for appointment to, and shall not hold the position of armorer, janitor, engineer or laborer in any armory or arsenal. The appointing officer shall grant to each employee a vacation of fourteen days per year with pay. [*As am'd by L.* 1912, *ch.* 102 *and L.* 1912, *ch.* 242.]

REGISTRATION OF LABORERS FOR MUNICIPAL EMPLOYMENT.

THE CIVIL SERVICE LAW, CHAPTER 7 OF THE CONSOLIDATED LAWS.

§ 18. **The labor class in cities.**—The labor class in cities shall include unskilled laborers and such skilled laborers as are not included in the competitive class or the noncompetitive class. Vacancies in the labor class in cities shall be filled by appointment from lists of applicants registered by the municipal commissions. Preference in employment from such lists shall be given according to date of application. There shall be separate lists of applicants for different kinds of labor or employment, and the commissions may establish separate labor lists for various institutions and departments. Where the labor service of any department or institution extends to separate localities, the commissions may provide separate registration lists for each district or locality. The commissions shall require an applicant for registration for the labor service to furnish such evidence or pass such examination as they may deem proper with respect to his age, residence, physical condition, ability to labor, skill, capacity and experience in the trade or employment for which he applies.

Veterans of the Civil War, who, under the terms of the Constitution (Art. V, § 9) are entitled to preference in the civil service "without regard to their standing," are to be placed at the head of registration lists as though their application had been filed prior to those of persons not entitled to preference (§ 21 of the Civil Service Law).

FIXING WAGES AND SALARIES OF EMPLOYEES OF THE STREET CLEANING DEPARTMENT, NEW YORK CITY.

THE REVISED CHARTER (LAWS OF 1901, CHAPTER 466).

§ 536. The members of the department of street cleaning shall be divided into two general classes, to be designated, respectively, the clerical force and the uniformed force. The clerical force shall consist of a chief clerk, medical examiners, not exceeding three in number, and such and so many clerks and messengers as the commissioner of street cleaning shall deem necessary. The uniformed force shall be appointed by the commissioner of street cleaning, and shall consist of one general superintendent, one assistant superintendent, one superintendent of final disposition, one assistant superintendent of final disposition, district superintendents, not exceeding twenty-one in number; time collectors, not exceeding eight in number; section foremen, not exceeding one hundred and twenty-five in number; dump inspectors, not exceeding forty-three in number; assistant dump inspectors, not exceeding

forty-three in number; sweepers, not exceeding thirty-one hundred in number; dump boardmen, not exceeding forty-three in number; drivers, not exceeding sixteen hundred in number; stable foremen, not exceeding twenty-one in number; assistant stable foremen, not exceeding twenty-one in number; hostlers, not exceeding one head hostler to each stable and additional hostlers not exceeding one for each ten horses; a master mechanic and such and so many mechanics and helpers as may be necessary. The commissioner of street cleaning shall have power and is hereby authorized to increase the said uniformed force, from time to time, by adding to the number of sweepers, drivers and hostlers provided the board of estimate and apportionment and the board of aldermen shall have previously made an appropriation for the purpose of permitting such increase. The annual salaries and compensations of the members of the uniformed force of the department of street cleaning shall not exceed the following: Of the general superintendent, three thousand dollars; of the assistant superintendent, two thousand five hundred dollars; of the master mechanic, one thousand eight hundred dollars; of the superintendent of final disposition, two thousand dollars; of the assistant superintendent of final disposition, one thousand five hundred dollars; of the district superintendents, one thousand eight hundred dollars each; of the time collectors, one thousand two hundred dollars each; of the section foremen, one thousand two hundred dollars each; of sweepers or drivers acting as assistants to the section or stable foremen, nine hundred dollars each; of the dump inspectors, one thousand two hundred dollars each; of the assistant dump inspectors, nine hundred dollars each; of the dump boardmen, seven hundred and twenty dollars each; of the sweepers, seven hundred and twenty dollars each; of the drivers, seven hundred and twenty dollars each; of the stable foremen, one thousand three hundred dollars each; of the assistant stable foremen, one thousand dollars each; of the hostlers, seven hundred and twenty dollars each. Hostlers may receive extra pay for Sundays if an appropriation therefor is made by the board of estimate and apportionment. The members of the department of street cleaning shall be employed at all such times and during such hours and upon such duties as the commissioner of street cleaning shall direct for the purpose of an effective performance of the work devolving upon the said department. In case of a snow fall or other emergency, the commissioner of street cleaning or the deputy commissioner may hire and employ temporarily such and so many men, carts and horses as shall be rendered necessary by such emergency, forthwith reporting such action with the full particulars thereof to the mayor, but no man, cart or horse, shall be so hired or employed for a longer period than three days, except that any person registered or eligible to appointment as a driver, or as a sweeper, may be temporarily employed at any time as an extra driver or sweeper to fill the place of a driver or sweeper who is suspended or temporarily absent from duty from any cause. The rate of compensation for such extra drivers or sweepers shall be two dollars per day, and the driver or sweeper whose place is so filled shall not receive any compensation for the time during which he is so absent from duty or his place is so filled, unless such injury or illness was caused by service in the department. The services of any person employed, and of carts and horses hired pursuant to

this section, shall be paid for in full and directly by the department of street cleaning, at such times as may be prescribed by such department; and they, and each of them, shall be employed and hired directly by the department of street cleaning and not through contractors or other persons, unless the commissioner himself shall determine that this requirement must for proper action in a particular instance be dispensed with. Nothing herein contained shall affect any existing contracts made with or by the department of street cleaning in regard to the cleaning of Broadway below Fourteenth street in said city or the renewal thereof, if deemed best by the commissioner of said department. Neither the commissioner of street cleaning, nor any deputy commissioner of street cleaning, nor any member of the uniformed force of the street cleaning department, shall be permitted to contribute any moneys, directly or indirectly, to any political fund, or intended to affect legislation for or on behalf of the street cleaning department or any member thereof.

RELIEF AND PENSION FUND FOR NEW YORK CITY STREET CLEANERS.

THE REVISED CHARTER (LAWS OF 1901, CHAPTER 466).

§ 548. There shall be a relief and pension fund of the department of street cleaning which shall be made up, administered and used for the benefit of the members of the clerical and uniformed forces of the department of street cleaning as defined by section five hundred and thirty-six of the charter, and the incumbents of such other positions in said department as have been created and not specified in section five hundred and thirty-six of the charter. [*Added by L.* 1911, *ch.* 839.]

§ 549. The relief and pension fund of the department of street cleaning of the city of New York shall consist of the following moneys and the interest and income thereof:

First. A sum of money equal to, but not greater than, three per centum of the weekly or monthly pay, salary or compensation of each such member of the department of street cleaning, which sum shall be deducted, weekly or monthly, as the case may be, by the comptroller from the pay, salary or compensation, of each and every such member of the department of street cleaning, and the said comptroller is hereby authorized, empowered and directed to deduct said sum of money as aforesaid, and to pay the same monthly to the treasurer and trustee of the relief and pension fund of the department of street cleaning.

Second. All money, pay, compensation or salary, or any part thereof, forfeited, deducted or withheld from any such member of the department of street cleaning on account of fines, suspensions or absence from any cause, loss of time, sickness or other disability, physical or mental, to be paid monthly by the comptroller to the treasurer and trustee of said pension fund, except in the case of a sweeper, driver, hostler, stableman or other employee who may have been sick or absent from any cause, and whose position has been filled by an extra sweeper, driver, stableman or other temporary employee, to whom compensation has been paid.

Third. All moneys received for the privilege of scow trimming or assorting of refuse at the various dumps in the boroughs of Manhattan, Brooklyn or Bronx, or at any other place where refuse may be disposed of, excepting

in so far as the provisions of any contract now in force between the city of New York and contractors give such privilege to the contractors. All contracts hereafter made shall stipulate that the proceeds from such trimming or assorting of refuse shall be paid by the comptroller to the trustee and treasurer of said pension fund.

Fourth. All moneys received from the sale of steam or house ashes, garbage and refuse, collected by the department of street cleaning, and any moneys that may be received for the disposal of such steam or house ashes, garbage or refuse.

Fifth. All proceeds of sales of condemned horses or other property of said department, excepting real property; and so much of the proceeds of sales of unharnessed trucks, carts, wagons and vehicles of any description, and of all boxes, barrels, bales or other merchandise, or other movable property, found in any public street or place and removed therefrom by the commissioner of street cleaning under any provision of law authorizing said commissioner to remove and to sell such incumbrances, as exceeds the necessary expense of the sales of such condemned property or unredeemed incumbrances and which is not under such provision of the law, payable to the lawful owner or owners of such incumbrances so sold, and all moneys collected for the release of merchandise, unharnessed vehicles or movable property removed as aforesaid.

Sixth. Any and all unexpended balances of amounts appropriated for the payment of salaries or compensation of such members of the department of street cleaning remaining unexpended after the allowance of all claims payable therefrom. And the comptroller is hereby authorized to pay over such unexpended balances to the treasurer and trustee of said pension fund at any time after the expiration of the year for which such amounts were appropriated, after allowing sufficient to satisfy all the claims payable therefrom as aforesaid.

Seventh. All gifts or bequests which may be made to said fund or the commissioner of street cleaning as treasurer and trustee of said fund. [*Added by L.* 1911, *ch.* 839.]

§ 550. The commissioner of street cleaning shall be the trustee and treasurer of said relief and pension fund. He shall, before entering upon his duties as treasurer and trustee thereof, deliver to the comptroller a bond in the penal sum of seventy-five thousand dollars, to be approved by the comptroller, conditioned for the faithful discharge and performance of his duties as such treasurer and trustee. Compensation shall be made to the commissioner of street cleaning for the expense of procuring sureties for said bond, to be paid out of said pension fund. Said treasurer and trustee shall have charge of and administer said fund. He shall receive all moneys applicable to said fund, and, from time to time, shall invest such moneys, or any part thereof, in any manner allowed by law for investments by savings banks, as he shall deem beneficial to said fund; and he is empowered to make all necessary contracts and to conduct necessary and proper actions and proceedings in the premises, and to pay from said fund the relief or pensions granted in pursuance of this act. And he is authorized and empowered to establish, from time to time, such rules and regulations for the disposition and investment, preservation and administration of said pension fund as he may deem best. No payment whatever shall be allowed or made

by said treasurer and trustee from said fund as reward, gratuity or compensation to any person for salary or service rendered to or for said treasurer and trustee, except payment of necessary legal expenses and compensation as aforesaid for the expenses of procuring sureties on said bond. The commissioner of street cleaning may employ the members of the clerical force in such clerical work as may be necessary for the care and administration of said fund as a part of their regular duties and without extra compensation. On or before the first day of February of each year the said treasurer and trustee shall make a verified report to the mayor containing a statement of the account of said fund under his control and of all receipts, investments and disbursements, on account of said fund, together with the name and residence of each beneficiary. There shall be an auditing committee consisting of three members of the department of street cleaning, to be appointed by the mayor. It shall be the duty of such auditing committee, on or before the first day of March in each year, to examine the condition of said relief and pension fund and to audit the accounts of said treasurer and trustee and to make report thereon to the mayor within thirty days thereafter. [*Added by L.* 1911, *ch.* 839.]

§ 551. The commissioner of street cleaning, as treasurer and trustee of said relief and pension fund, is hereby authorized and empowered to take and hold any and all gifts or bequests which may be made to such fund, and to transfer such gifts or bequests to his successor, together with all other moneys or property belonging to said fund. [*Added by L.* 1911, *ch.* 839.]

§ 552. The commissioner of street cleaning shall have power in his discretion to retire and dismiss from membership in his department a member of the department of street cleaning as hereinafter provided; and he shall grant relief or a pension to such member so retired and dismissed from membership, and to the widows and orphans of members of said department who may be entitled to receive such relief or pension, to be paid from said relief or pension fund, in monthly instalments, as follows:

First. To any such member who, at any time after the passage of this act, while in the actual performance of duty, and without fault or misconduct on the part of such member, shall have become permanently disabled, physically or mentally, so as to be unfit to perform the duties required of such member, provided that such unfitness for duty has been certified to by a majority of the medical examiners of said department, the sum of twenty-five dollars per month.

Second. To the widow of any member of the department of street cleaning who, after the passage of this act, shall have been killed while in the actual performance of his duty, or shall have died from the effects of any injury received while in the actual performance of such duty, the sum of not more than three hundred dollars per annum; and to the widow of any member of such force who shall hereafter die and who shall have been ten years in the service in said department at the time of his death, or who shall have been retired on a pension, as hereinafter provided, if there shall be no child or children of such member under eighteen years of age, the sum of not more than two hundred dollars per annum, in the discretion of said treasurer and trustee; and if there be such child or children of such member under the age aforesaid, then such sum may be divided between

such widow, child or children in such proportion and in such manner as the said treasurer and trustee may direct. The right of such widow to such pension shall cease and terminate at her death or remarriage; or if she shall have been guilty of conduct which in the opinion of said treasurer and trustee renders payment inexpedient.

Third. To any child or children under eighteen years of age of such member killed or dying as aforesaid, or dying after retirement leaving no widow, or if a widow, then after her death, a sum not exceeding two hundred dollars per annum to be paid as such treasurer and trustee shall direct until such child or children shall have attained the age of eighteen years or shall have married.

Fourth. To the widowed mother of any such member, who was the sole support of such mother, who shall die after the passage of this act, a sum not to exceed two hundred dollars per annum, to cease upon the death or remarriage of such widowed mother. [*Added by L.* 1911, *ch.* 839.]

§ 553. Any such member who has or shall have performed duty as such member for a period of ten years or upwards shall be relieved and dismissed from said force upon his or her own application, or by order of the commissioner, upon an examination by the medical examiners of said department, to be made at any time when so applied for or when so ordered, if a majority of such medical examiners shall certify that such member is permanently disabled, physically or mentally, so as to be unfit for duty; and such member so relieved and dismissed from said force shall be paid from said fund in monthly instalments during his or her lifetime a sum not less than one-half of the annual salary or compensation of such member when he or she was so retired; and any such member who shall have performed duty on said force for a period of twenty years or upward, whether continuous or rendered during different periods, and who has reached the age of sixty years, may, upon the application of such member in writing, be relieved and dismissed from said force and service, and shall be paid from said fund in monthly instalments during his or her lifetime a sum not less than one-half of the annual salary or compensation of such member when so retired; provided, however, that no such member shall be so retired or granted a pension while there are charges of official misconduct pending against him or her. Pensions granted under this section shall be for the natural life of the pensioner and shall not be revoked, repealed or diminished. [*Added by L.* 1911, *ch.* 839.]

§ 554. The commissioner of street cleaning, as such treasurer and trustee, is authorized and empowered to make and enforce all such rules, orders and regulations as may be necessary to carry out the provisions of this act relative to pensions and may employ members of the department for such purpose so far as may be required. [*Added by L.* 1911, *ch.* 839.]

§ 555. The moneys or other property of the relief and pension fund of the department of street cleaning and all pensions or relief moneys granted and payable from said fund shall be, and the same are, exempt from levy and sale under execution, and from all processes or proceedings to enjoin payment, or to recover such moneys or property, by or on behalf of any creditor or other person having or asserting any claim against, or debt or liability of any person entitled to such pension or relief. [*Added by L.* 1911, *ch.* 839.]

§ 556. This act shall take effect October first, nineteen hundred and eleven, so far as it applies to the deduction by the comptroller of three per centum of the pay, salary or compensation of the members of the department of street cleaning, and to the collection and taking over by said treasurer and trustee of such other moneys as are provided by this act to be taken for such fund, and all such moneys shall be so taken and held for such purpose by said treasurer and trustee on and after said date. Provided, however, that no such deduction of such per centum shall be made by the comptroller from the pay, salary or compensation of any person who is or was a member of the department of street cleaning on or before September first, nineteen hundred and eleven, unless such member shall have given his or her consent in writing to the commissioner of street cleaning on or before that date that he or she agrees to abide by the provisions of this act and authorizes the comptroller of the city of New York to so deduct such per centum; and any such member who fails to give such written consent shall not be entitled to be or to become a beneficiary of said relief and pension fund; but such deduction of such per centum shall be made by the comptroller without such consent from the pay, salary or compensation of any person who shall become a member of the department of street cleaning after September first, nineteen hundred and eleven, and all such persons shall be entitled to or become beneficiaries of said relief and pension fund without such written consent to such deduction. [*Added by L.* 1911, *ch.* 839.]

§ 557. No relief or pension shall be paid to any person under the provisions of this act, and no person shall be entitled to receive any of the benefits provided for in this act prior to January first, nineteen hundred and thirteen, excepting that relief and pensions granted under the provisions of this act shall be payable to and through members of the department who shall die or become disabled on and after September first, nineteen hundred and eleven, but the payment of such relief or pension shall be postponed until January first, nineteen hundred and thirteen, on which date the provisions of this act providing for the payment of relief or pensions shall take effect. [*Added by L.* 1911, *ch.* 839.]

PROHIBITING THE SUB-LETTING OF PUBLIC CONTRACTS.

GENERAL MUNICIPAL LAW, CHAPTER 24 OF THE CONSOLIDATED LAWS.

(See also § 43 of State Finance Law, ch. 56 of the Consolidated Laws.)

§ 86. Contractors not to assign contracts with municipality without its consent.— A clause shall be inserted in all specifications or contracts hereafter made or awarded by any municipal corporation, or any public department or official thereof, prohibiting any contractor, to whom any contract shall be let, granted or awarded, as required by law, from assigning, transferring, conveying, subletting or otherwise disposing of the same, or of his right, title or interest therein, or his power to execute such contract to any other person, company or corporation, without the previous consent in writing of the department or official awarding the same.

If any contractor, to whom any contract is hereafter let, granted or awarded, as required by law, by any municipal corporation in the state, or by any public department or official thereof, shall, without the previous written consent specified in the first paragraph of this section, assign, trans-

fer, convey, sublet, or otherwise dispose of the same, or his right, title or interest therein, or his power to execute such contract, to any other person, company or other corporation, the municipal corporation, public department, or official as the case may be, which let, made, granted or awarded said contract shall revoke and annul such contract, and the municipal corporation, public department or officer, as the case may be, shall be relieved and discharged from any and all liability and obligations growing out of said contract to such contractor, and to the person, company, or corporation to whom he shall assign, transfer, convey, sublet or otherwise dispose of the same, and said contractor, and his assignee, transferee, or sub-lessee, shall forfeit and lose all moneys, theretofore earned under said contract except so much as may be required to pay his employees; provided that nothing herein contained shall be construed to hinder, prevent or affect an assignment by such contractor for the benefit of his creditors, made pursuant to the statutes of this state.

SECURING THE PAYMENT OF WAGES TO EMPLOYEES OF CONTRACTORS UPON CANALS.

CANAL LAW, CHAPTER 5 OF THE CONSOLIDATED LAWS.

§ 145. Security for payment of laborers.— The superintendent of public works or assistant superintendent having charge, shall also require and take from the contractor, a bond with at least two good and sufficient sureties, conditioned that such contractor will well and truly pay in full, at least once in each month, all laborers employed by him on the work specified in such contract, which shall be duly acknowledged and filed in the office of the clerk of the county wherein such contract or work is to be performed, and if partly in two or more counties, such bond or a certified copy thereof shall be filed in the clerk's office of each county.

Actions may be brought for a breach of such bond by any laborer not paid in accordance with its terms, and the commencement or maintenance of an action by one or more laborers thereon shall not be a bar to the commencement and maintenance of other actions thereon by other laborers. No action shall be maintained against the sureties unless brought within thirty days after the completion of the labor the payment of which is secured by the bond.

Laborers are those who perform labor on canals and do not include sub-contractors. (Swift v. Kingsley, 24 Barb. 541; and see McCluskey v. Cromwell, 11 N. Y. 593.)

AUTHORIZING THE EIGHT HOUR DAY UPON RESERVOIR CONSTRUCTION IN NEW YORK CITY.

LAWS OF 1902, CHAPTER 588.

AN ACT relative to the powers of the aqueduct commissioners, provided for and holding office under and pursuant to the provisions of chapter four hundred and ninety of the laws of eighteen hundred and eighty-three, and its amendments.

Section 1. The aqueduct commissioners, provided for and holding office under and pursuant to the provisions of an act of the legislature of the

state of New York, entitled "An act to provide new reservoirs, dams and a new aqueduct with the appurtenances thereto, for the purpose of supplying the city of New York with an increased supply of pure and wholesome water," said act being chapter four hundred and ninety of the laws of eighteen hundred and eighty-three, and its amendments, are hereby authorized and empowered to agree with any person, firm or corporation with whom they have contracted or may hereafter contract, upon such terms and conditions as shall in their judgment and discretion, be for the best interests of the city of New York, that eight hours shall constitute a day's work for all laborers employed by said person, firm or corporation in the performance of his or its contract and that no laborer employed in the performance of any such contract shall be required, permitted or allowed to work more than eight hours. No agreement made under the provisions of this act shall be valid or binding until the same has been approved by the board of estimate and apportionment of the city of New York.

PRISON LABOR.*

OCCUPATION AND EMPLOYMENT OF CONVICTS.

CONSTITUTION OF STATE OF NEW YORK, ARTICLE III.

Section 29. The Legislature shall by law provide for the occupation and employment of prisoners sentenced to the several State prisons, penitentiaries, jails and reformatories in the State; and on and after the first day of January, in the year one thousand eight hundred and ninety-seven, no person in any such prison, penitentiary, jail or reformatory, shall be required or allowed to work while under sentence thereto, at any trade, industry or occupation, wherein or whereby his work or the product or profit of his work, shall be farmed out, contracted, given or sold to any person, firm, association or corporation. This section shall not be construed to prevent the legislature from providing that convicts may work for, and that the products of their labor may be disposed of to, the State or any political division thereof, or for or to any public institution owned or managed and controlled by the State, or any political division thereof.

PRISON LAW, CHAPTER 43 OF THE CONSOLIDATED LAWS.

ARTICLE 7.

Prison Labor.

Section 170. Contracts prohibited.
171. Prisoners to be employed; products of labor of prisoners.
172. Labor of prisoners of first grade, how directed.
173. Labor of prisoners of second grade, how directed.
174. Labor of prisoners of third grade, how directed.
175. Prisoners employed for use of state, and divisions thereof.
176. No printing or photo-engraving to be done by prisoners for use of state.
177. Labor of prisoners in prisons, reformatories and penitentiaries.
178. Labor of prisoners in certain institutions.
179. Employment of convicts on public highways.
180. Persons interfering with convicts employed on highways guilty of misdemeanor.
181. Classification of industries; report as to industries.
182. Articles manufactured to be furnished to the state or division thereof.
183. Estimates of articles required to be furnished commission of prisons by officers.
184. Board of classification; prices to be fixed.
185. Earnings of prisoners.
186. Disposition of fines.
187. Disposition of moneys paid to prisoner for his labor.
188. Monthly statement of receipts and expenditures for prison industries.
189. Statement of machinery and materials required.
190. Machinery and materials for prison industries, how purchased.
191. Disposition of machinery on discontinuance of industry.
192. Purchases to be included in estimates.
193. Deposits by agent and warden in banks.
194. Violations of prison labor regulations.

§ 170. Contracts prohibited.— The superintendent of state prisons shall not, nor shall any other authority whatsoever, make any contract by which the

* See also article 13 of the Labor Law, *ante*.

labor or time of any prisoner in any state prison, reformatory, penitentiary or jail in this state, or the product or profit of his work, shall be contracted, let, farmed out, given or sold to any person, firm, association or corporation; except that the convicts in said penal institutions may work for, and the products of their labor may be disposed of to, the state or any political division thereof or for or to any public institution owned or managed and controlled by the state, or any political division thereof.

§ 171. Prisoners to be employed; products of labor of prisoners.—The superintendent of state prisons, the superintendents, managers and officials of all reformatories and penitentiaries in the state, shall, so far as practicable, cause all the prisoners in said institutions, who are physically capable thereof, to be employed at hard labor, for not to exceed eight hours of each day, other than Sundays and public holidays, but such hard labor shall be either for the purpose of production of supplies for said institutions, or for the state, or any political division thereof, or for any public institution owned or managed and controlled by the state, or any political division thereof; or for the purpose of industrial training and instruction, or partly for one, and partly for the other of such purposes.

§ 172. Labor of prisoners of first grade, how directed.— The labor of the prisoners of the first grade in each of said prisons, reformatories and penitentiaries, shall be directed with reference to fitting the prisoner to maintain himself by honest industry after his discharge from imprisonment, as the primary or sole object of such labor, and such prisoners of the first grade may be so employed at hard labor for industrial training and instruction solely, even though no useful or salable products result from their labor, but only in case such industrial training or instruction can be more effectively given in such manner. Otherwise, and so far as is consistent with the primary object of the labor of prisoners of the first grade as aforesaid, the labor of such prisoners shall be so directed as to produce the greatest amount of useful products, articles and supplies needed and used in the said institutions, and in the buildings and offices of the state, or those of any political division thereof, or in any public institution owned or managed and controlled by the state or any political division thereof, or said labor may be for the state, or any political division thereof.

§ 173. Labor of prisoners of second grade, how directed.— The labor of prisoners of the second grade in said prisons, reformatories and penitentiaries shall be directed primarily to labor for the state or any political division thereof, or to the production and manufacture of useful articles and supplies for said institutions, or for any public institution owned or managed and controlled by the state, or any political division thereof.

§ 174. Labor of prisoners of third grade, how directed.— The labor of prisoners of the third grade shall be directed to such exercise as shall tend to the preservation of health, or they shall be employed in labor for the state, or a political division thereof, or in the manufacture of such useful articles and supplies as are needed and used in the said institutions, and in the public institutions owned or managed and controlled by the state, or any political division thereof.

§ 175. **Prisoners employed for use of state, and divisions thereof.**—All convicts sentenced to state prisons, reformatories and penitentiaries in the state, shall be employed for the state, or a political division thereof, or in productive industries for the benefit of the state, or the political divisions thereof, or for the use of public institutions owned or managed and controlled by the state, or the political divisions thereof, which shall be under rules and regulations for the distribution and diversification thereof, to be established by the state commission of prisons.

§ 176. **No printing or photo-engraving to be done by prisoners for use of state.**— No printing or photo-engraving shall be done in any state prison, penitentiary or reformatory for the state or any political division thereof, or for any public institution owned or managed and controlled by the state or any such political division, except such printing as may be required for or used in the penal and state charitable institutions, and the reports of the state commission of prisons and the superintendent of prisons, and all printing required in their offices.

§ 177. **Labor of prisoners in prisons, reformatories and penitentiaries.**— The labor of the convicts in the state prisons and reformatories in the state, after the necessary labor for and manufacture of all needed supplies, for said institutions, shall be primarily devoted to the state and the public buildings and institutions thereof, and the manufacture of supplies for the state, and public institutions thereof, and secondly to the political divisions of the state, and public institutions thereof; and the labor of the convicts in the penitentiaries, after the necessary labor for and manufacture of all needed supplies for the same, shall be primarily devoted to the counties, respectively, in which said penitentiaries are located, and the towns, cities and villages therein, and to the manufacture of supplies for the public institutions of the counties, or the political divisions thereof, and secondly to the state and the public institutions thereof.

§ 178. **Labor of prisoners in certain institutions.**— The state board of managers of reformatories, and the managing authorities of all the penitentiaries or other penal institutions in this state, are hereby authorized and directed to conduct the labor of prisoners therein, respectively, in like manner and under like restrictions, as labor is authorized by sections one hundred and seventy and one hundred and seventy-one of this article, to be conducted in state prisons.

§ 179. **Employment of convicts on public highways.**— The superintendent of state prisons may employ or cause to be employed, not to exceed three hundred of the convicts confined in each state prison in the improvement of the public highways, within a radius of thirty miles from such prison and outside of an incorporated city or village.

The agent and warden of each prison may make such rules as he may deem necessary for the proper care of such prisoners while so employed, subject to the approval of the superintendent of state prisons.

The agent and warden of each prison may designate, subject to the approval of the superintendent of state prisons, the highways and portions thereof upon which such labor shall be employed; and such portions so designated and approved shall be under his control during the time such improvements are

in progress, and the state engineer and surveyor shall fix the grade and width of the roadway of such highways and direct the manner in which the work shall be done.

The superintendent of state prisons is hereby authorized to purchase any machinery, tools and materials necessary in such employment.

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§ 182. **Articles manufactured to be furnished to the state or division thereof.**— The superintendent of state prisons, and the superintendents of reformatories and penitentiaries, respectively, are authorized and directed to cause to be manufactured by the convicts in the prisons, reformatories and penitentiaries, such articles as are needed and used therein, and also such as are required by the state or political divisions thereof, and in the buildings, offices and public institutions owned or managed and controlled by the state, including articles and materials to be used in the erection of the buildings. All such articles manufactured in the state prisons, reformatories and penitentiaries, and not required for use therein, shall be of the styles, patterns, designs and qualities fixed by the board of classification, and may be furnished to the state, or to any political division thereof, or for or to any public institution owned or managed and controlled by the state, or any political division thereof, at and for such prices as shall be fixed and determined as hereinafter provided, upon the requisitions of the proper officials, trustees or managers thereof. No article so manufactured shall be purchased from any other source, for the state or public institutions of the state, or the political divisions thereof, unless said state commission of prisons shall certify that the same can not be furnished upon such requisition, and no claim therefor shall be audited or paid without such certificate.

§ 183. **Estimates of articles required to be furnished commission of prisons by officers.**— On or before October first in each year, the proper officials of the state, and the political divisions thereof, and of the institutions of the state, or political divisions thereof, shall report to the said commission of prisons estimates for the ensuing year of the amount of supplies of different kinds required to be purchased by them that can be furnished by the penal institutions in the state. The said commission is authorized to make regulations for said reports, to provide for the manner in which requisitions shall be made for supplies, and to provide for the proper diversification of the industries in said penal institutions.

§ 184. **Board of classification; prices to be fixed.**— The fiscal supervisor of state charities, the state commission of prisons, and the superintendent of state prisons and the lunacy commission are hereby constituted a board to be known as the board of classification. Said board shall fix and determine the prices at which all labor performed, and all articles manufactured in the charitable institutions managed and controlled by the state and in the penal institutions in this state, and furnished to the state, or the political divisions thereof, or to the public institutions thereof, shall be furnished, which prices shall be uniform to all, except that the prices for goods or labor furnished by the penitentiaries to or for the county in which they are located, or the political divisions thereof, shall be fixed by the board of supervisors of such counties, except New York and Kings counties, in which the prices shall be fixed by the commissioners of charities and correc-

tion, respectively. The prices shall be as near the usual market price for such labor and supplies as possible. The state commission of prisons shall devise and furnish to all such institutions a proper form for such requisition, and the comptroller shall devise and furnish a proper system of accounts to be kept for all such transactions. It shall also be the duty of the board of classification to classify the buildings, offices and institutions owned or managed and controlled by the state, and it shall fix and determine the styles, patterns, designs and qualities of the articles to be manufactured for such buildings, offices and public institutions, in the charitable and penal institutions in this state. So far as practicable, all supplies used in such buildings, offices and public institutions shall be uniform for each class, and of the styles, patterns, designs and qualities that can be manufactured in the penal institutions in this state.

§ 185. **Earnings of prisoners.**— Every prisoner confined in the state prisons, reformatories and penitentiaries, who shall become entitled to a diminution of his term of sentence by good conduct, may, in the discretion of the agent and warden, or of the superintendent of the reformatory, or superintendent of the penitentiary, receive compensation from the earnings of the prison or reformatory or penitentiary in which he is confined, such compensation to be graded by the agent and warden of the prison for the prisoners therein, and the superintendent of the reformatory and penitentiary for the prisoners therein, for the time such prisoner may work, but in no case shall the compensation allowed to such convicts exceed in amount ten percentum of the earnings of the prison or reformatory or penitentiary in which they are confined. The difference in the rate of compensation shall be based both on the pecuniary value of the work performed, and also on the willingness, industry and good conduct of such prisoner; provided, that whenever any prisoner shall forfeit his good time for misconduct or violation of the rules or regulations of the prison, reformatory or penitentiary, he shall forfeit out of the compensation allowed under this section fifty cents for each day of good time so forfeited; and provided, that prisoners serving life sentences shall be entitled to the benefit of this section when their conduct is such as would entitle other prisoners to a diminution of sentence, subject to forfeiture of good time for misconduct as herein provided. The agent and warden of each prison, or the superintendent of the reformatory or superintendent of the penitentiary may institute and maintain a uniform system of fines, to be imposed at his discretion, in place of his other penalties and punishments, to be deducted from such compensation standing to the credit of any prisoner, for misconduct by such prisoner.

EMPLOYMENT OF PRISONERS IN COUNTY JAILS.

THE COUNTY LAW, CHAPTER 11 OF THE CONSOLIDATED LAWS.

§ 93. **Food and labor.**— Prisoners detained for trial, and those under sentence, shall be provided with a sufficient quantity of plain but wholesome food, at the expense of the county; but prisoners detained for trial may, at their own expense, and under the direction of the keeper, be supplied with any other proper articles of food. Such keeper shall cause each prisoner committed to his jail for imprisonment under sentence, to be constantly em-

ployed at hard labor when practicable, during every day, except Sunday, and the board of supervisors of the county, or judge of the county, may prescribe the kind of labor at which such prisoner shall be employed; and the keeper shall account, at least annually, with the board of supervisors of the county, for the proceeds of such labor. Such keeper may, with the consent of the board of supervisors of the county, or the county judge, from time to time, cause such of the convicts under his charge as are capable of hard labor, to be employed outside of the jail in the same, or in an adjoining county, upon such terms as may be agreed upon between the keepers and the officers, or persons, under whose direction such convicts shall be placed, subject to such regulations as the board or judge may prescribe; and the board of supervisors of the several counties are authorized to employ convicts under sentence to confinement in the county jails, in building and repairing penal institutions of the county and in building and repairing the highways in their respective counties or in preparing the materials for such highways for sale to and for the use of such counties or towns, villages, and cities therein; and to make rules and regulations for their employment; and the said board of supervisors are hereby authorized to cause money to be raised by taxation for the purpose of furnishing materials and carrying this provision into effect; and the courts of this State are hereby authorized to sentence convicts committed to detention in the county jails to such hard labor as may be provided for them by the boards of supervisors.

EMPLOYMENT OF PRISONERS IN NEW YORK CITY PENAL INSTITUTIONS.

LAWS OF 1901, CHAPTER 466 (THE NEW YORK CITY CHARTER).

§ 700. **Employment of inmates; articles manufactured; cultivation of lands.** — Every inmate of an institution under the charge of the commissioner, whose age and health will permit, shall be employed in quarrying or cutting stone, or in cultivating land under the control of the commissioner, or in manufacturing such articles as may be required for ordinary use in the institutions under the control of the commissioner, or for the use of any department of The City of New York, or in preparing and building sea walls upon islands or other places belonging to The City of New York upon which public institutions now are or may hereafter be erected, or in public works carried on by any department of the city, or at such mechanical or other labor as shall be found from experience to be suited to the capacity of the individual. The articles raised or manufactured by such labor shall be subject to the order of and shall be placed under the control of the commissioner, and shall be utilized in the institutions under his charge or in some other department of the city. All the lands under the jurisdiction of the commissioner not otherwise occupied or utilized, and which are capable of cultivation shall in the discretion of the commissioner be used for agricultural purposes.

§ 701. **Detail of inmates to work in other departments.**— At the request of any of the heads of the administrative departments of The City of New York (who are hereby empowered to make such request) the commissioner of correction may detail and designate any inmate or inmates of any of the institutions in the department of correction to perform work, labor and services in and upon the grounds and building or in and upon

any public work or improvement under the charge of such other department. And such inmates when so employed shall at all times be under the personal oversight and direction of a keeper or keepers from the department of correction, but no inmate of any correctional institution shall be employed in any ward of any hospital except hospitals in penal institutions, while such ward is being used for hospital purposes. The provisions of this act or of law requiring advertisement for bids or proposals, or the awarding of contracts, for work to be done or supplies to be furnished for any of said departments shall not be applicable to public work which may be done or to the supplies which may be furnished under the provisions of the prison law.

§ 702. **Hours of labor; discipline.**— The hours of labor required of any inmate of any institution under the charge of the commissioner shall be fixed by the commissioner. * * * * * * * * * * *

AGRICULTURAL LABOR.

THE AGRICULTURAL LAW, CHAPTER 1 OF THE CONSOLIDATED LAWS.

ARTICLE 12.

Agricultural Statistics.

Section 280. Collection and dissemination of statistics.
281. Information to be furnished by supervisors.

§ 280. **Collection and dissemination of statistics.**— The commissioner of agriculture may collect and disseminate such information relative to agriculture, and agricultural labor within the state, as he may deem wise for the purpose of promoting agricultural production within this state.

§ 281. **Information to be furnished by supervisors.**— Supervisors of the different towns and wards in this state shall furnish to the commissioner of agriculture upon request from him, upon blanks to be furnished by the said commissioner, such information as may be in their possession or may be obtained by them relative to agriculture, agricultural production and agricultural labor within their respective towns or wards. Such information shall be furnished to said commissioner within thirty days from the time it is asked for. The expense incurred by the several supervisors in furnishing such information shall be a town charge to be paid in the manner now provided by law for the payment of services and disbursements by such supervisor.

RAILWAY LABOR.

[*See also* DUTIES AND LIABILITIES OF EMPLOYERS, ETC., *and sections* 6, 7 *and* 8 *of the Labor Law.*]

THE SAFETY OF RAILWAY EMPLOYEES.

THE RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS.

§ 71. **Duties imposed.**— It shall be the duty of every railroad corporation operating its road by steam:

1. To lay, in the construction of new and in the renewal of existing switches, upon freight or passenger main line tracks, switches on the principle of either the so-called Tyler, Wharton, Lorenz, or split-point switch, or some other kind of safety switch, which shall prevent the derailment of a train, when such switch is misplaced or a switch interlocked with distant signals.

2. To erect and thereafter maintain such suitable warning signals at every road, bridge, or structure which crosses the railroad above the tracks, where such warning signals may be necessary, for the protection of employees on top of cars from injury.

3. To use upon every new freight car built or purchased for use, couplers which can be coupled and uncoupled automatically, without the necessity of having a person guide the link, lift the pin by hand, or go between the ends of the cars.

4. To attach to every car used for passenger transportation an automatic air-brake or other form of safety-power brake, applied from the locomotive, excepting cars attached to freight trains, the schedule rate of speed of which does not exceed twenty miles an hour.

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Every corporation, person or persons, operating such railroad, and violating any of the provisions of this section, except subdivision six, shall be liable to a penalty of one hundred dollars for each offense, and the further penalty of ten dollars for each day that it shall omit or neglect to comply with any of such provisions. For every violation of the provisions of the sixth subdivision of this section every such corporation shall be liable to a penalty of twenty-five dollars for each offense.

§ 72. **Inspection of locomotive boilers.**— It shall be the duty of every railroad corporation operated by steam power, within this state, and of the directors, managers or superintendents of such railroad to cause thorough inspections to be made of the boilers and their appurtenances of all the steam locomotives which shall be used by such corporation or corporations, on said railroads. Said inspections shall be made, at least every three months under the direction and superintendence of said corporations, or the directors, managers or superintendents thereof, by persons of suitable qualifications and attainments to perform the services required of inspectors of boilers, and who from their knowledge of the construction and use of boilers and the appurtenances therewith connected, are able to form a reliable opinion of the strength, form, workmanship and suitableness of boilers, to be employed without hazard of life, from imperfections in ma-

terial, workmanship or arrangement of any part of such boiler and appurtenances. All such boilers so used shall comply with the following requirements: The boilers must be made of good and suitable materials; the openings for the passage of water and steam respectively, and all pipes and tubes exposed to heat shall be of proper dimensions; the safety valves, fusible plugs, low water glass * indicater gauge cocks and steam gauges, shall be of such construction, condition and arrangement that the same may be safely employed in the active service of the railroad corporation without peril to life; and each inspector shall satisfy himself by thorough examination that said requirements have been fully complied with. No boiler, nor any connection therewith shall be approved which is unsafe in its form, or dangerous from defects, workmanship or other cause. The person or persons who shall make the said inspections if he or they approve of the boiler or boilers and the appurtenances throughout, shall make and subscribe his or their name to a written or printed certificate which shall contain the number of each boiler inspected, the date of its inspection, the condition of the boiler inspected, and such details as may be required by the forms and regulations which shall be prescribed by the public service commission. Every certificate shall be verified by the oath of the inspector, and he shall cause such certificate or certificates to be filed in the office of the public service commission, within ten days after each inspection shall have been made, and also a copy thereof with the chief operating officer or employee of such railroad having charge of the operation of such locomotive boiler; a copy shall also be placed by such officer or employee in a conspicuous place in the cab connected with the locomotive boiler inspected, and there kept framed under glass. The public service commission shall have power, from time to time, to formulate rules and regulations for the inspection and testing of boilers as aforesaid, and may require the removal of incompetent inspectors of boilers under the provisions of this section. Copies of such rules and regulations shall be mailed to every corporation operating a railroad by steam in this state. If it shall be ascertained by such inspection and test or otherwise, that any locomotive boiler is unsafe for use, the same shall not again be used until it shall be repaired, and made safe, so as to comply with the requirements of this section. Every corporation, director, manager or superintendent operating such railroad and violating any of the provisions of this section shall be liable to a penalty, to be paid to the people of the state of New York, of one hundred dollars for each offense, and the further penalty of one hundred dollars for each day it or he shall omit or neglect to comply with said provisions, and the making or filing of a false certificate shall be a misdemeanor, and every inspector who wilfully certifies falsely touching any steam boiler, or any appurtenance thereto belonging, or any matter or thing contained or required to be contained in any certificate, signed and sworn to by him, shall be guilty of a misdemeanor. Any person, upon application to the secretary of said commission and on the payment of such reasonable fee as said commission may by rule fix, shall be furnished with a copy of any such certificate. The public service commission shall enforce the provisions of this section as to penalties.

* So in original.

§ 73. **State inspector of locomotive boilers.**— The office of state inspector of locomotive boilers is continued. Said inspector shall be appointed by the public service commissions and shall receive a compensation to be fixed by the commission, not exceeding three thousand dollars per year. He shall, under the direction of the commission, inspect boilers or locomotives used by railroad corporations operating steam railroads within the state, and may cause the same to be tested by hydrostatic test and shall perform such other duties in connection with the inspection and test of locomotive boilers as the commission shall direct. But this section shall not relieve any railroad corporation from the duties imposed by the preceding section.

§ 74. **Care of steam locomotives; steam and water cocks; penalty.**—It shall be the duty of every corporation operating a steam railroad, within this state, and of its directors, managers or superintendents, to cause the boiler of every locomotive used on such railroad to be washed out as often as once every thirty days, and to equip each boiler with and maintain thereon at all times, a water glass, showing the height of water in the boiler, having two valves or shut-off cocks, one at each end of such glass, which valves or shut-off cocks shall be so constructed that they can be easily opened and closed by hand; also to cause such valves or shut-off cocks and all gauge cocks or try-cocks attached to the boiler to be removed and cleaned whenever the boiler is washed out pursuant to the foregoing requirements of this section; also to keep all steam valves, cocks and joints, studs, bolts and seams in such repair that they will not at any time emit steam in front of the engineer, so as to obscure his vision. No locomotive shall hereafter be driven in this state unless the same is equipped and cared for in conformity with the provisions of this section; but nothing herein contained shall be construed to excuse the observance of any other requirement imposed by this chapter upon railroad corporations, their directors, officers, managers and superintendents. Every corporation, person or persons operating a steam railroad and violating any of the provisions of this section, shall be liable to a penalty of one hundred dollars for each offense, and the further penalty of ten dollars for each day that such violation shall continue. The public service commission shall enforce the provisions of this section.

§ 75. **Public service commission may approve other safeguards.**— The public service commission may, on the application of any railroad corporation, authorize it to use any other safeguard or device approved by the commission, in place of any safeguard or device hereinbefore required by this article, which shall thereafter be used in lieu thereof, and the same penalties for neglect or refusal to use the same shall be incurred and imposed as for a failure to use the safeguard or device hereinbefore required, in lieu of which the same is to be used.

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§ 77. **Equipment of engines.**— It shall be unlawful for any railroad company to use within the state on its line or lines any locomotive engine not equipped with a power driving wheel brake and appliances for operating the train brake system.

§ 78. **Coal jimmies.**— The use of cars known and designated as "coal jimmies" in any form and the use of any car as a caboose unless it shall have a suitable and safe platform at each end thereof, and the usual railing for the protection of persons using such platform, shall be unlawful within the state, except upon any railroad whose main line is less than fifteen miles in length and whose average grade exceeds two hundred feet to the mile. This section shall not be construed to authorize the interchange of such "coal jimmies" with, and the use thereof upon, railroads of more than fifteen miles in length or whose average grade is less than two hundred feet to the mile.

§ 79. **Air-brakes.**— It shall be unlawful for any railroad or other company to haul or permit to be hauled or used on its line or lines within this state any freight train that has not a sufficient number of cars in it so equipped with continuous power or air-brakes that the engineer on the locomotive drawing such train can control its speed without requiring brakemen to use the common hand brake for that purpose.

§ 80. **Couplers.**— It shall be unlawful for any railroad or other company to haul, or permit to be hauled or used, on its line or lines within the state, any freight car not equipped with couplers of the master car builders' type, and coupling automatically by impact, and which can be uncoupled, except in cases of accident, without the necessity of men going between the ends of the cars.

§ 81. **Violation of four preceding sections.**— Any railroad or other company hauling or permitting to be hauled on its line or lines any train in violation of any of the provisions of the preceding four sections shall be liable to a penalty of one hundred dollars for each and every violation, to be recovered in an action to be brought by the public service commission in the name of the people and in the judicial district wherein the principal office of the company within the state is located.

Penal Law, Chapter 40 of the Consolidated Laws.

§ 1988. **Guard posts; automatic couplers.**—All corporations and persons other than employees, operating any steam railroad in this state:

1. Failing to cause guard posts to be placed in prolongation of the line of bridge trusses upon such railroad, so that in case of derailment, the posts and not the trusses shall receive the blow of the derailed locomotive or car; or,

2. Failing to equip all of their own freight cars, run and used in freight or other trains on such railroad, with automatic self-couplers, or running or operating on such railroad any freight car belonging to any such person or corporation, without having the same equipped, except in case of accident or other emergency, with automatic self-couplers, and except within the extended time allowed by the public service commission, in pursuance of law, for equipping such car with such couplers, is guilty of a misdemeanor, punishable by a fine of five hundred dollars for each offense.

Public Service Commissions Law, Chapter 48 of the Consolidated Laws.

§ 47. **Investigation of accidents.**— Each commission shall investigate the cause of all accidents on any railroad or street railroad within its district

which result in loss of life or injury to persons or property, and which in its judgment shall require investigation. Every common carrier, railroad corporation and street railroad corporation is hereby required to give immediate notice to the commission of every accident happening upon any line of railroad or street railroad owned, operated, controlled or leased by it, within the territory over which such commission has jurisdiction in such manner as the commission may direct. Such notice shall not be admitted as evidence or used for any purpose against such common carrier, railroad corporation or street railroad corporation giving such notice in any suit or action for damages growing out of any matter mentioned in said notice.

See also § 66 authorizing the Commissions to order improvements necessary to protect persons employed in the manufacture and distribution of gas or electricity.

ENCLOSURE OF STREET CAR PLATFORMS.

The Railroad Law, Chapter 49 of the Consolidated Laws.

§ 194. **Protection of employees.**— Every corporation operating a street surface railroad in this state, except such as operate a railroad or railroads either in the borough of Manhattan or Brooklyn, in the city of New York, shall cause the front and rear platforms of every passenger car propelled by electricity, cable or compressed air, operated on any division of such railroad which extends in or between towns or outside of city limits, during the months of December, January, February and March, except cars attached to the rear of other cars, to be inclosed from the fronts of the platforms to the fronts of the hoods, so as to afford protection to any person stationed by such corporation on such platforms to perform duties in connection with the operation of such cars. Every corporation or person using and operating a car in violation of this section shall be liable to a penalty of twenty-five dollars per day for each car so used and operated, to be collected in an action brought by the public service commission and to be paid to the treasurer of the state of New York, or in a suit by the attorney of the municipality in which the violation of the provisions of this section occurs, to be paid into the treasury of such municipality.

§ 195. **Platforms on new cars, how constructed.**— All street surface railroad passenger cars purchased, built or rebuilt after the first day of December, nineteen hundred and four, and operated in the state of New York on and after said date, except those owned by any company operating either in the borough of Manhattan or Brooklyn, in the city of New York, shall be constructed in accordance with the provisions of the preceding section.

§ 196. **Protection to employees in the counties of Albany and Rensselaer.**— Every corporation operating a street surface railroad in the counties of Albany and Rensselaer shall cause the front and rear platforms of every car propelled by electricity, cable or compressed air, during the months of December, January, February and March, except cars attached to the rear of other cars, to be inclosed from the front and at least one side of the platform to the hood, so as to afford protection to any person stationed by such corporation on such platforms to perform duties in connection with the operation of such cars. Platforms on cars on such street surface railroads used more than one mile outside the limits of a city shall be com-

pletely inclosed from platform to hood. Every corporation using and operating a car in violation of this section shall be liable to a penalty of twenty-five dollars per day for each car so used and operated, to be collected by the people to the use of the poor of the county in which such corporation has its principal office, in an action brought by the public service commission or the district attorney of such county. The supreme court may, on the application of a citizen, direct the district attorney to bring such action.

§ 197. **Protection of employees in the counties of Kings and Queens.**—Every corporation operating a street surface railroad in the counties of Kings or Queens, shall cause the front and rear platforms of every passenger car propelled by electricity, cable or compressed air, operated on any division of such railroad during the months of December, January, February and March, except cars attached to the rear of other cars, to be inclosed from the fronts of the platforms to the fronts of the hoods so as to afford protection to any person stationed by such corporation on such platforms to perform duties connected with the operation of such cars. Every corporation or person using and operating a car in violation of this section shall be liable to a penalty of twenty-five dollars per day for each car used and operated, to be collected in an action brought by the public service commission and to be paid to the treasurer of the city of New York, or in a suit by the district attorney of the counties of Kings or Queens to be paid into the treasury of the city of New York.

QUALIFICATIONS OF ENGINEERS AND TELEGRAPHERS.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 1982. **Person unable to read not to act or be employed as engineer.**—Any person unable to read the time-tables of a railroad and ordinary handwriting, who acts as an engineer or runs a locomotive or train on any railroad in this state; or any person who, in his own behalf, or in the behalf of any other person or corporation, knowingly employs a person so unable to read to act as such engineer or to run any such locomotive; or who employs a person as a telegraph operator who is under the age of eighteen years, or who has less than one year's experience in telegraphing, to receive or transmit a telegraphic message or train order for the movement of trains, is guilty of a misdemeanor.

QUALIFICATIONS OF STREET RAILWAY CONDUCTORS, MOTORMEN, ETC.

THE RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS.

§ 63. **Persons employed as drivers, conductors, motormen or gripmen.**—Any railroad corporation may employ any inhabitant of the state, of the age of twenty-one years, not addicted to the use of intoxicating liquors, as a car driver, conductor, motorman or gripman, or in any other capacity, if fit and competent therefor. All applicants for positions as motormen or gripmen on any street surface railroad in this state shall be subjected to a thorough examination by the officers of the corporation as to their habits, physical ability and intelligence. If this examination is satisfactory, the

applicant shall be placed in the shop or power house where he can be made familiar with the power and machinery he is about to control. He shall then be placed on a car with an instructor, and when the latter is satisfied as to the applicant's capability for the position of motorman or gripman, he shall so certify to the officers of the company, and, if appointed, the applicant shall first serve on the lines of least travel. Any violation of the provisions of this section shall be a misdemeanor.

EMPLOYMENT OF INTEMPERATE PERSONS ON RAILWAYS AND STEAMBOATS.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 1913. **Employment by common carrier of person addicted to intoxication.** — Any person or officer of an association or corporation engaged in the business of conveying passengers or property for hire, who shall employ in the conduct of such business, as an engineer, fireman, conductor, switch-tender, train dispatcher, telegrapher, commander, pilot, mate, fireman or in other like capacity, so that by his neglect of duty, the safety and security of life, person or property so conveyed might be imperiled, any person who habitually indulges in the intemperate use of liquors, after notice that such person has been intoxicated, while in the active service of such person, association or corporation, shall be guilty of a misdemeanor.

§ 1984. **Intoxication or other misconduct of railroad or steamboat employees.** — 1. Any person who, being employed upon any railway as engineer, conductor, baggagemaster, brakeman, switch-tender, fireman, bridge-tender, flagman, signal man, or having charge of stations, starting, regulating or running trains upon a railroad, or, being employed as captain, engineer or other officer of a vessel propelled by steam, is intoxicated while engaged in the discharge of any such duties; or,

2. An engineer, conductor, brakeman, switch-tender, or other officer, agent or employee of any railroad corporation, who wilfully violates or omits his duty as such officer, agent or employee, by which human life or safety is endangered, the punishment of which is not otherwise prescribed,

Is guilty of a misdemeanor.

See also §§ 322–323 of the Highway Law (ch. 25 of the Consolidated Laws) forbidding the employment of persons addicted to drunkenness by owners of public carriages.

MISCONDUCT OF OFFICIALS OR EMPLOYEES ON ELEVATED RAILROADS.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 1983. **Misconduct of officials or employees on elevated railroads.** — Any conductor, brakeman, or other agent or employee of an elevated railroad, who:

1. Starts any train or car of such railroad, or gives any signal or order to any engineer or other person to start any such train or car, before every passenger therein who manifests an intention to depart therefrom by arising, or moving toward the exit thereof, has departed therefrom; or before every passenger on the platform or station at which the train has stopped, who

manifests a desire to enter the train, has actually boarded or entered the same, unless due notice is given by an authorized employee of such railroad that the train is full, and that no more passengers can then be received; or,

2. Obstructs the lawful ingress or egress of a passenger to or from any such car; or,

3. Opens a platform gate of any such car while the train is in motion, or starts such train before such gate is firmly closed,

Is guilty of a misdemeanor.

Formerly Penal Code, § 419.

WEARING OF UNIFORMS AND BADGES.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 1989. **Inciting railroad employees not to wear uniform; unauthorized wearing of uniform.**—A person who:

1. Advises or induces any one, being an officer, agent or employee of a railway company, to leave the service of such company, because it requires a uniform to be worn by such officer, agent or employee, or to refuse to wear such uniform, or any part thereof; or,

2. Uses any inducement with a person employed by a railway company to go into the service or employment of any other railway company, because a uniform is required to be worn; or,

3. Wears the uniform designated by a railway company without authority,

Is guilty of a misdemeanor.

RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS.

§ 65. **Conductors and employees must wear badges.**—Every conductor and employee of a railroad corporation employed on a passenger train, or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office or employment, and the initial letters of the corporation employing him. No conductor or collector without such badge shall demand or receive from any passenger any fare or ticket or exercise any of the powers of his employment. No officer or employee without such badge shall meddle or interfere with any passenger, his baggage or property.

CONDUCTORS AND TRAINMEN AS POLICEMEN.

RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS.

§ 88. **When conductors and brakemen may be policemen.**—The governor may appoint any conductor or brakeman on any train conveying passengers on any steam railroad in this state, a policeman, with all the powers of a policeman in cities and villages, for the preservation of order and of the public peace, and the arrest of all persons committing offenses upon the land or property of the corporation owning or operating such railroad; and he may also appoint, on the application of any such corporation, or of any steamboat company, such additional policemen, designated by it, as he may deem proper, who shall have the same powers. Every such policeman shall within fifteen days after receiving his commission, and before entering upon the duties of his office, take and subscribe the constitutional oath of office, and file it with his commission in the office of the secretary of state. The

post-office address of the person appointed shall appear in the commission, and whenever such address is changed the person appointed shall file with the governor a statement of the new address. Every such policeman shall when on duty wear a metallic shield with the words "railroad police" or "steamboat police," as the case may be, and the name of the corporation for which appointed inscribed thereon, which shall always be worn in plain view, except when employed as a detective. The compensation of every such policeman shall be such as may be agreed upon between him and the corporation for which he is appointed, and shall be paid by the corporation. When any corporation shall no longer require the services of any such policemen it may file notice to that effect in the office in which notice of his appointment was originally filed, and thereupon such appointment shall cease and be at an end. The governor may also at pleasure revoke the appointment of any such policeman by filing a revocation thereof in the office of the secretary of state and mailing a notice of such filing to the corporation for which he was appointed, and also to the person whose appointment is revoked, at his last post-office address as the same appears in the commission or the latest statement thereof on file. If such person thereafter, knowing of such revocation or having in any manner received notice thereof, exercises or attempts to exercise any of the powers of a policeman, under this section, he shall be guilty of a misdemeanor; and the filing and mailing of such notice, as above provided, shall be presumptive evidence that such person knew of the revocation. [*As am'd by L.* 1911, *ch.* 817.]

PROVIDING FOR BAIL OF RAILWAY EMPLOYEES IN CASES OF ACCIDENT.

CODE OF CRIMINAL PROCEDURE.

§ 554-a. **Bail of certain railroad employees.**— Whenever a person employed as an engineer, fireman, motorman, conductor, trainman or otherwise, on a train or car of a steam, elevated or street surface railroad, is arrested in any city on a criminal charge, arising from an accident in connection with the operation of such train or car, resulting in an injury or death to a person or injury to property, such engineer, fireman, motorman, conductor, trainman or other employee, shall be immediately taken before a magistrate, if one is accessible, and otherwise, before a captain or sergeant of police, or acting sergeant of police, or lieutenant of police, in charge of a police station in such city, and be given an opportunity to be admitted to bail. Such bail shall be taken in the same manner, so far as practicable, as is provided by section five hundred and fifty-four of this code, for the taking of bail in case of misdemeanors by a captain or sergeant of police, or acting sergeant of police, or lieutenant of police, in a city or village, except that the amount of bail shall be fixed by such officer at not exceeding one thousand dollars, and except that the undertaking shall provide for the appearance of the defendant before the magistrate, coroner, or other officer, who, except for this section, would be authorized to take such bail. Such officer may, however, in his discretion, instead of exacting bail, release such employee on his own recognizance, conditional for his appearance as above provided in case an undertaking is required. [*Added by L.* 1903, *ch.* 614; *am'd by L.* 1912, *ch.* 99.]

UNCLAIMED ARTICLES FOUND IN PUBLIC VEHICLES TO BE SOLD FOR BENEFIT OF EMPLOYEES' ASSOCIATION.

RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS.

§ 199. **Sale of unclaimed property.**—It shall be the duty of every street surface railroad corporation doing business in this state, and of every corporation engaged in this state in the business of carrying passengers for hire in cabs, coaches, or other similar vehicles or of letting such vehicles for hire, or in the business of operating a line of stages or omnibuses, which shall have unclaimed property left in its cars, cabs, coaches, stages or other similar vehicles, to ascertain if possible, the owner or owners of such property, and to notify such owner or owners of the fact by mail as soon as possible, after such property comes into its possession. Every such corporation which shall have such property not perishable, in its possession for the period of three months, may sell the same at public auction, after giving notice to that effect, by one publication, at least ten days prior to the sale, in a daily newspaper published in the city or village in which such sale is to take place, of the time and place at which such sale will be held, and such sale may be adjourned from time to time until all the articles offered for sale are sold. All perishable property so left, may be sold by any such corporation without notice, as soon as it can be, upon the best terms that can be obtained.

§ 200. **Disposition of proceeds.**—All moneys arising from the sale of any such unclaimed property, after deducting charges for storage and expenses of sale, shall be paid by any such corporation to the treasurer of any association, composed of the employees of such corporation, having for its object the pecuniary assistance of its members in case of disability caused by sickness or accident, for the use and benefit of such association and its members; and where no such association of the employees of any such corporation is in existence at the time of any such sale, such moneys shall be paid over to the county treasurer of the county or if in a city, to the chief fiscal officer thereof, in which such sale took place for the benefit of such city or county.

Cf. Railroad Law, § 68, relating to sale of "Unclaimed freight and baggage," and General Business Law (ch. 20 of the Consolidated Laws), §§ 207–208, relating to sale of unclaimed articles in hotels, for benefit of county poor.

COMPLAINTS TO PUBLIC SERVICE COMMISSIONS.

PUBLIC SERVICE COMMISSIONS LAW, CHAPTER 48 OF THE CONSOLIDATED LAWS.

§ 45. **General powers and duties of commissions in respect to common carriers, railroads and street railroads.**— * * * 2. Each commission shall have the general supervision of all common carriers, railroads, street railroads, railroad corporations and street railroad corporations within its jurisdiction as hereinbefore defined, and shall have power to and shall examine the same and keep informed as to their general condition, their capitalization, their franchises and the manner in which their lines and property, owned, leased, controlled or operated, are managed, conducted and operated, not only with respect to the adequacy, security and accommodation afforded by their service, but also with respect to their compliance with all provisions of law, orders of the commission and charter requirements. Each commission shall have

power, either through its members or responsible engineers or inspectors duly authorized by it, to enter in or upon and to inspect the property, equipment, buildings, plants, factories, power-houses and offices of any of such corporations or persons, including the right for such inspection purpose to ride upon any freight locomotive or train or any passenger locomotive or train while in service; and to have upon reasonable notice the use of an inspection locomotive or special locomotive and inspection car for a physical inspection once annually of all the lines and stations of each common carrier under its supervision; and to the extent that such facilities for inspection involve transportation each commissioner and each such employee shall pay the published one-way fare established by the common carrier for the transportation of persons by regular passenger trains over the distance covered by such inspection. The cost of such transportation, if the commission so elects, may be paid upon bill rendered to the commission after the transportation has been furnished and the amount thereof ascertained.

3. Each commission and each commissioner shall have power to examine all books, contracts, records, documents and papers of any person or corporation subject to its supervision, and by subpœna duces tecum to compel production thereof. In lieu of requiring production of originals by subpœna duces tecum, the commission or any commissioner may require sworn copies of any such books, records, contracts, documents and papers or parts thereof to be filed with it.

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§ 48. **Investigations by commission.**—1. Each commission may, of its own motion, investigate or make inquiry, in a manner to be determined by it, as to any act or thing done or omitted to be done by any common carrier, railroad corporation or street railroad corporation, subject to its supervision, and the commission must make such inquiry in regard to any act or thing done or omitted to be done by any such common carrier, railroad corporation or street railroad corporation in violation of any provision of law or in violation of any order of the commission.

2. Complaints may be made to the proper commission by any person or corporation aggrieved, by petition or complaint in writing setting forth any thing or act done or omitted to be done by any common carrier, railroad corporation or street railroad corporation in violation, or claimed to be in violation, of any provision of law or of the terms and conditions of its franchise or charter or of any order of the commission. Upon the presentation of such a complaint the commission shall cause a copy thereof to be forwarded to the person or corporation complained of, which may be accompanied by an order, directed to such person or corporation, requiring that the matters complained of be satisfied, or that the charges be answered in writing within a time to be specified by the commission. If the person or corporation complained of shall make reparation for any injury alleged and shall cease to commit, or to permit, the violation of law, franchise or order charged in the complaint, and shall notify the commission of that fact before the time allowed for answer, the commission need take no further action upon the charges. If, however, the charges contained in such petition be not thus satisfied, and it shall appear to the commission that there are reasonable

grounds therefor, it shall investigate such charges in such manner and by such means as it shall deem proper, and take such action within its powers as the facts justify.

3. Whenever either commission shall investigate any matter complained of by any person or corporation aggrieved by any act or omission of a common carrier, railroad corporation or street railroad corporation under this section it shall be its duty to make and file an order either dismissing the petition or complaint or directing the common carrier, railroad corporation or street railroad corporation complained of to satisfy the cause of complaint in whole or to the extent which the commission may specify and require.

INDUSTRIAL EDUCATION.

THE APPRENTICE SYSTEM.

[Apprenticeship is regulated by Article VIII of the Domestic Relations Law (printed below), which is to be enforced by the Commissioner of Labor (see § 67 of the Labor Law, *ante*). The Penal Law makes it a misdemeanor to take an apprentice without the consent of the parent or guardian (§ 1275, 3, *ante*), and the Code of Criminal Procedure (Title IX of Part VI) prescribes the proceedings respecting masters, apprentices and servants.]

DOMESTIC RELATIONS LAW, CHAPTER 14 OF THE CONSOLIDATED LAWS.

ARTICLE 8.

Apprentices and Servants.

Section 120. Definitions; effect of article.
121. Contents of indenture.
122. Indenture by minor; by whom signed.
123. Indenture by poor officers; by whom signed.
124. Binding out children by charitable corporation; indenture; by whom signed.
125. Penalty for failure of master or employer to perform provisions of indenture.
126. Assignment of indenture on death of master or employer.
127. Contract with apprentice in restraint of trade void.

§ 120. **Definitions; effect of article.**— The instrument whereby a minor is bound out to serve as a clerk or servant in any trade, profession or employment, or is apprenticed to learn the art or mystery of any trade or craft, is an indenture.

Every indenture made in pursuance of the laws repealed by this chapter shall be valid hereunder, but hereafter a minor shall not be bound out or apprenticed except in pursuance of this article.

§ 121. **Contents of indenture.**— Every indenture must contain:

1. The names of the parties;

2. The age of the minor as nearly as can be ascertained, which age on the filing of the indenture shall be taken prima facie to be the true age;

3. A statement of the nature of the service or employment to which the minor is bound or apprenticed;

4. The term of service or apprenticeship, stating the beginning and end thereof;

5. An agreement that the minor will not leave his master or employer during the term for which he is indentured;

6. An agreement that suitable and proper board, lodging and medical attendance for the minor during the continuance of the term shall be provided, either by the master or employer, or by the parent or guardian of the apprentice;

7. A statement of every sum of money paid or agreed to be paid in relation to the service;

8. If such minor is bound as an apprentice to learn the art or mystery of any trade or craft, an agreement on the part of the employer to teach, or cause to be carefully and skillfully taught, to such apprentice, every branch of the business to which such apprentice is indentured, and that at the ex-

piration of such apprenticeship he will give to such apprentice a certificate, in writing, that such apprentice has served at such trade or craft a full term of apprenticeship specified in such indenture;

9. If a minor is indentured by the poor officers of a county, city or town, or by the authorities of an orphan asylum, penal or charitable institution, an agreement that the master or employer will cause such child to be instructed in reading, writing and the general rules of arithmetic, and that at the expiration of the term of service he will give to such minor a new bible.

Every such indenture shall be filed in the office of the county clerk of the county where the master or employer resides.

§ 122. **Indenture by minor; by whom signed.**—Any minor may, by the execution of the indenture provided by this article, bind himself or herself:

1. As an apprentice to learn the art or mystery of any trade or craft for a term of not less than three nor more than five years;

2. As a servant or clerk in any profession, trade or employment for a term of service not longer than the minority of such minor, unless such indenture be made by a minor coming from a foreign country, for the purpose of paying his passage, when such indenture may be made for a term of one year although such term may extend beyond the time when such person will be of full age.

An indenture made in pursuance of this section must be signed,

1. By the minor;

2. By the father of the minor unless he is legally incapable of giving consent or has abandoned his family;

3. By the mother of the minor unless she is legally incapable of giving consent;

4. By the guardian of the person of the minor, if any;

5. If there be neither parents nor guardian of the minor legally capable of giving consent, by the county judge of the county, or a justice of the supreme court of the district, in which the minor resides; whose consent shall be necessary to the binding out or apprenticing in pursuance of this section of a minor coming from a foreign country or of the child of an Indian woman, in addition to the other consents herein provided;

6. By the master or employer.

§ 123. **Indenture by poor officers; by whom signed.**—The poor officers of a municipal corporation may, by an execution of the indenture provided by this article, bind out or apprentice any minor whose support shall become chargeable to such municipal corporation.

In such case the indenture shall be signed,

1. By the officer or officers binding out or apprenticing the minor;

2. By the master or employer;

3. By the county judge of the county, if the support of such child was chargeable to the county, by two justices of the peace, if chargeable to the town, or by the mayor and aldermen or any two of them, if chargeable to the city.

The poor officers by whom a child is indentured and their successors in office shall be guardians of every such child and shall inquire into the treatment thereof, and redress any grievance as provided by law.

§ 124. **Binding out children by charitable corporation; indenture; by whom signed.**— An orphan asylum or charitable institution, incorporated for the care of orphans, friendless or destitute children, may bind out as an apprentice, clerk or servant, an indigent or poor child by an indenture in writing. Such child must have been absolutely surrendered to the care and custody of such asylum or institution in pursuance of this chapter, or have been placed therein as a poor person, as provided in section fifty-six of the poor law, or have been left to the care of such asylum or institution with no provision by the parent, relative or legal guardian of such child, for its support, for a period of one year then next preceding. Such indenture shall bind such child, if a male, for a period which shall not extend beyond his twenty-first year, and if a female, for a period which shall not extend beyond her eighteenth year. Every such child shall, when practicable, be bound out or apprenticed to persons of the same religious faith as the parents of such child. The indenture shall in such case be signed:

1. In the corporate name of such institution by the officer or officers thereof authorized by the directors to sign the corporate name to such instrument, and shall be sealed with the corporate seal;

2. By the master or employer.

Such indenture may also be signed by the child, if over twelve years of age.

§ 125. **Penalty for failure of master or employer to perform provisions of indenture.**— If a master or employer to whom a minor has been indentured shall fail, during the term of service, to perform any provision of such indenture on his part, such minor or any person in his behalf may bring an action against the master or employer to recover damages for such failure; and if satisfied that there is sufficient cause, the court shall direct such indenture to be canceled, and may render judgment against such master or employer for not to exceed one thousand nor less than one hundred dollars, to be collected and paid over for the use and benefit of such minor to the corporation or officers indenturing such minor, if so indentured, and otherwise, to the parents or guardian of the child.

§ 126. **Assignment of indenture on death of master or employer.**— On the death of a master or employer to whom a person is indentured by the poor officers of a municipal corporation, the personal representatives of the master or employer may, with the written and acknowledged consent of such person, assign such indenture and the assignee shall become vested with all the rights and subject to all the liabilities of his assignor, or if such consent be refused, the assignment may be made with like effect by the county judge of the county, on proof that fourteen days' notice of the application therefor has been given to the person indentured, to the officers by whom indentured, and to his parent or guardian, if in the country.

§ 127. **Contract with apprentice in restraint of trade void.**— No person shall accept from any apprentice any agreement or cause him to be bound by oath, that after his term of service expires he will not exercise his trade, profession or employment in any particular place; nor shall any person exact from any apprentice, after his term of service expires, any money or other thing, for exercising his trade, profession or employment in any place. Any security given in violation of this section shall be void; and any money paid,

or valuable thing delivered, for the consideration, in whole or in part, of any such agreement or exaction, may be recovered by the person paying the same with interest; and every person accepting such agreement, causing such obligation to be entered into, or exacting money or other thing, is also liable to the apprentice in the penalty of one hundred dollars, which may be recovered in a civil suit.

INDUSTRIAL TRAINING IN THE PUBLIC SCHOOLS.

EDUCATION LAW, CHAPTER 16 OF THE CONSOLIDATED LAWS (AS AMENDED BY L. 1910, CH. 140).

ARTICLE 22.

General Industrial Schools, Trade Schools, and Schools of Agriculture, Mechanic Arts and Home Making.

Section 600. General industrial schools, trade schools, and schools of agriculture, mechanic arts and home making, may be established in cities.
601. Such schools may be established in union free school districts.
602. Appointment of an advisory board.
603. Authority of the board of education over such schools.
604. State aid for general industrial schools, trade schools, and schools of agriculture, mechanic arts and home making.
605. Application of such moneys.
606. Annual estimate by board of education and appropriations by municipal and school districts.
607. Courses in schools of agriculture for training of teachers.

§ 600. **General industrial schools, trade schools and schools of agriculture, mechanic arts and home making, may be established in cities.**— The board of education of any city, and in a city not having a board of education the officer having the management and supervision of the public school system, may establish, acquire, conduct and maintain as a part of the public school system of such city the following:

1. General industrial schools open to pupils who have completed the elementary school course or who have attained the age of fourteen years, and;

2. Trade schools open to pupils who have attained the age of sixteen years and have completed either the elementary school course or a course in the above mentioned general industrial school or who have met such other requirements as the local school authorities may have prescribed.

3. Schools of agriculture, mechanic arts and home making, open to pupils who have completed the elementary school course or who have attained the age of fourteen, or who have met such other requirements as the local school authorities may have prescribed.

§ 601. **Such schools may be established in union free school districts.**— The board of education of any union free school district shall also establish, acquire and maintain such schools for like purposes whenever such schools shall be authorized by a district meeting.

§ 602. **Appointment of an advisory board.**— 1. The board of education in a city and the officer having the management and supervision of the public school system in a city not having a board of education shall appoint an advisory board of five members representing the local trades, industries, and occupations. In the first instance two of such members shall be appointed for a term of one year and three of such members shall be appointed for a term of two years. Thereafter as the terms of such members shall expire the vacancies caused thereby shall be filled for a full term of two years. Any other vacancy occurring on such board shall be filled by the appointing power named in this section for the remainder of the unexpired term.

2. It shall be the duty of such advisory board to counsel with and advise the board of education or the officer having the management and supervision of the public school system in a city not having a board of education in relation to the powers and duties vested in such board or officer by section six hundred and three of this chapter.

§ 603. **Authority of the board of education over such schools.**— The board of education in a city and the officer having the management and supervision of the public school system in a city not having a board of education and the board of education in a union free school district which authorizes the establishment of a general industrial school, a trade school, or a school of agriculture, mechanic arts and home making, is vested with the same power, and authority over the management, supervision and control of such school and the teachers or instructors employed therein as such board or officer now has over the schools and teachers under their charge. Such boards of education or such officer shall also have full power and authority:

1. To employ competent teachers or instructors.

2. To provide proper courses of study.

3. To purchase or acquire sites and grounds and to purchase, acquire, lease or construct and to repair suitable shops or buildings and to properly equip the same.

4. To purchase necessary machinery, tools, apparatus and supplies.

§ 604. **State aid for general industrial schools, trade schools, and schools of agriculture, mechanic arts and home making.**— 1. The commissioner of education in the annual apportionment of the state school moneys shall apportion therefrom to each city and union free school district the sum of five hundred dollars for each independently organized general industrial school, trade school, or a school of agriculture, mechanic arts and home making, maintained therein for thirty-eight weeks during the school year and employing one teacher whose work is devoted exclusively to such school, and having an enrollment of at least twenty-five pupils and maintaining a course of study approved by him.

2. The commissioner of education shall also make an additional apportionment to each city and union free school district of two hundred dollars for each additional teacher employed exclusively in such schools for thirty-eight weeks during the school year.

3. The commissioner of education may in his discretion apportion to a district or city maintaining such schools or employing such teachers for a

shorter time than thirty-eight weeks, an amount pro rata to the time such schools are maintained or such teachers are employed. This section shall not be construed to entitle manual training high schools or other secondary schools maintaining manual training departments, to an apportionment of funds herein provided for.

§ 605. **Application of such moneys.**—All moneys apportioned by the commissioner of education for general industrial or trade schools shall be used exclusively for the support and maintenance of such schools in the city or district to which such moneys are apportioned.

§ 606. **Annual estimate by board of education and appropriations by municipal and school districts.**— 1. The board of education of each city or the officer having the management and supervision of the public school system in a city not having a board of education shall file with the common council of such city, within thirty days after the commencement of the fiscal year of such city, a written itemized estimate of the expenditures necessary for the maintenance of its general industrial schools, trade schools, or schools of agriculture, mechanic arts and home making, and the estimated amount which the city will receive from the state school moneys applicable to the support of such schools. The common council shall give a public hearing to such persons as wish to be heard in reference thereto. The common council shall adopt such estimate and, after deducting therefrom the amount of state moneys applicable to the support of such schools, shall include the balance in the annual tax budget of such city. Such amount shall be levied, assessed and raised by tax upon the real and personal property liable to taxation in the city at the time and in the manner that other taxes for school purposes are raised. The common council shall have power by a two-thirds vote to reduce or reject any item included in such estimate.

2. The board of education in a union free school district which maintains a general industrial school, trade school, or a school of agriculture, mechanic arts and home making, shall include in its estimate of expenses pursuant to the provisions of sections three hundred and twenty-three and three hundred and twenty-seven of this chapter the amount that will be required to maintain such schools after applying toward the maintenance thereof the amount apportioned therefor by the commissioner of education. Such amount shall thereafter be levied, assessed and raised by tax upon the taxable property of the district at the time and in the manner that other taxes for school purposes are raised in such district.

§ 607. **Courses in schools of agriculture for training of teachers.**— The state schools of agriculture at Saint Lawrence University, at Alfred University and at Morrisville may give courses for the training of teachers in agriculture, mechanic arts, domestic science or home making, approved by the commissioner of education. Such schools shall be entitled to an apportionment of money as provided in section six hundred and four of this chapter for schools established in union free school districts. Graduates from such approved courses may receive licenses to teach agriculture, mechanic arts and home making in the public schools of the state, subject to such rules and regulations as the commissioner of education may prescribe.

FREE LECTURES FOR WORKINGPEOPLE.

LAWS OF 1888, CHAPTER 545.

AN ACT to provide for lectures for workingmen and workingwomen [in New York City].

§ 1. The board of education of the city of New York is hereby authorized and empowered to provide for the employment of competent lecturers to deliver lectures on the natural sciences and kindred subjects in the public schools of said city in the evenings for the benefit of workingmen and workingwomen.

§ 2. The said board of education shall have power to purchase the books, stationery, charts and other things necessary and expedient to successfully conduct said lectures which it shall have power to direct.

§ 3. No admission fee shall be charged, and at least one school in each ward of said city or such hall or halls therein, if there is not suitable accommodation in the school buildings for persons attending said lectures, where in the judgment of the said board of education it is practicable or expedient, shall be selected and designated by said board for the purpose of carrying out the provisions of this act, and one or more lectures, in the discretion of said board, shall be delivered in each school or other building so selected and designated in each week, between the first day of October in each year and the thirty-first day of March in each succeeding year, excepting the two weeks preceding and the week following the first day of January in each year; and such lecture or lectures may be advertised in a newspaper or newspapers published in said city, or otherwise, as the said board of education in its discretion shall determine. The board of estimate and apportionment of the city and county of New York is hereby authorized to appropriate annually sufficient money to carry out the provisions of this act. [*As am'd by L.* 1889, *ch.* 383; *L.* 1890, *ch.* 305; *L.* 1891, *ch.* 71.]

LICENSING OF TRADES.

[State examination boards grant certificates or licenses to nurses, pharmacists, physicians and other professions, and also to marine engineers and chauffeurs; but the regulation of other licensed *trades* is delegated to municipalities. Of the various local laws only those applying to New York City are here reprinted.]

LICENSING OF ENGINEERS AND PILOTS OF VESSELS.

THE NAVIGATION LAW, CHAPTER 37 OF THE CONSOLIDATED LAWS.

§ 17. **Licenses.**— Every person employed as master, pilot or engineer on board of a steam vessel or a vessel propelled by machinery, carrying passengers for hire or towing for hire, shall be examined by the inspectors as to his qualifications, and if satisfied therewith they shall grant him a license for the term of one year for such boat, boats or class of boats as said inspectors may specify in such license. In a proper case, the license may permit and specify that the master may act as pilot, and in case of small vessels also as engineer and pilot. The license shall be framed under glass, and posted in some conspicuous place on the vessel on which he may act. Whoever acts as master, pilot or engineer, without having first received such license, or upon a boat or class of boats not specified in his license, shall be liable to a penalty of fifty dollars for each day that he so acts, except as in this article otherwise specified, and such license may be revoked by the inspectors for intemperance, incompetency or wilful violation of duty.

§ 34. * * Each person licensed shall pay five dollars for each original license and three dollars for each renewal thereof. * *

For the act regulating the pilotage of the port of New York see Navigation Law, § 56.

LICENSING OF CHAUFFEURS.

THE HIGHWAY LAW, CHAPTER 30 OF THE CONSOLIDATED LAWS.

§ 281. **Definitions.**— * * * The term "chauffeur" shall mean any person operating or driving a motor vehicle, as an employee or for hire. * * * [*As am'd by L.* 1910, *ch.* 374 *and L.* 1911, *ch.* 491.]

§ 289. **License of chauffeurs; renewals.**— 1. License of chauffeurs. Application for license to operate motor vehicles, as a chauffeur, may be made, by mail or otherwise, to the secretary of state or his duly authorized agent upon blanks prepared under his authority. The secretary of state shall appoint examiners and cause examinations to be held at convenient points throughout the state as often as may be necessary. Such application shall be accompanied by a photograph of the applicant in such numbers and forms as the secretary of state shall prescribe, said photograph to be taken within thirty days prior to the filing of said application and to be accompanied by the fee provided herein. Before such a license is granted the applicant shall pass such examination as to his qualifications as the secretary of state shall require. No chauffeur's license shall be issued to any person under eighteen years of age. To each person shall be assigned some distinguishing number or mark, and the license issued shall be in such form as the secretary

of state shall determine; it may contain special restrictions and limitations concerning the type of motor power, horse power, design and other features of the motor vehicles which the licensee may operate; it shall contain the distinguishing number or mark assigned to the licensee, his name, place of residence and address, a brief description of the licensee for the purpose of identification and the photograph of the licensee. Such distinctive number or mark shall be of a distinctly different color each year and in any year shall be of the same color as that of the number plates issued for that year. The secretary of state shall furnish to every chauffeur so licensed a suitable metal badge with the distinguishing number or mark assigned to him thereon without extra charge therefor. This badge shall thereafter be worn by such chauffeur affixed to his clothing in a conspicuous place, at all times while he is operating or driving a motor vehicle upon the public highway. Said badge shall be valid only during the term of the license of the chauffeur to whom it is issued as aforesaid. Every person licensed to operate motor vehicles as aforesaid shall indorse his usual signature on the margin of the license, in the space provided for the purpose, immediately upon receipt of said license, and such license shall not be valid until so indorsed. Every application for license filed under the provisions of this section shall be sworn to and shall be accompanied by a fee of five dollars, two dollars of which shall be for his examination aforesaid and three dollars for license fee. The license hereunder granted on or before August first, nineteen hundred and ten, shall take effect on that date, and licenses issued prior to January thirty-first, nineteen hundred and eleven, shall expire on that date. The fees for such licenses shall be one-half of the annual fees provided herein.

2. Chauffeur's licensed registration book. Upon the receipt of such an application, the secretary of state shall thereupon file the same in his office, and register the applicant in a book or index which shall be kept in the same manner as the book or index for the registration of motor vehicles, and when the applicant shall have passed the examination provided for in the preceding section, the number or mark assigned to such applicant together with the fact that such applicant has passed such examination shall be noted in said book or index.

3. Unauthorized possession or use of license or badge. No chauffeur having been licensed as herein provided shall voluntarily permit any other person to possess or use his license or badge, nor shall any person while operating or driving a motor vehicle use or possess any license or badge belonging to another person, or a fictitious license or badge.

4. Unlicensed chauffeurs cannot drive motor vehicle. No person shall operate or drive a motor vehicle as a chauffeur upon a public highway of this state after the first day of August, nineteen hundred and ten, unless such person shall have complied in all respects with the requirements of this section; provided, however, that a nonresident chauffeur, who has registered under provisions of law of the foreign country, state, territory or federal district of his residence substantially equivalent to the provisions of this section, shall be exempt from license under this section; and provided, further, he shall wear the badge assigned to him in the foreign country, state, territory or federal district of his residence in the manner provided in this section.

5. Renewal. Such license shall be renewed annually upon the payment of the same fee as provided in this section for the original license, such renewal to take effect on the first day of February of each year. The secretary of state may refuse to issue or renew a license if he deems the applicant not qualified to receive such license, but the refusal of the secretary of state may be reviewed by writ of certiorari. For renewals to take effect on and after February first, nineteen hundred and twelve, the fee shall be two dollars. [*As am'd by L.* 1910, *ch.* 374 *and L.* 1911, *ch.* 491.]

EXAMINATION AND LICENSING OF PLUMBERS IN CITIES.

THE GENERAL CITY LAW, CHAPTER 21 OF THE CONSOLIDATED LAWS.

§ 40. **Examining boards of plumbers in cities.**— The existing boards for the examination of plumbers in cities of this state are continued and each shall hereafter be known as the examining board of plumbers. Such board in each city shall continue to consist of five persons to be appointed by the mayor, of whom two shall be employing or master plumbers of not less than ten years' experience in the business of plumbing, and one shall be a journeyman plumber of like experience, and the other members of such board shall be the chief inspector of plumbing and drainage of the board of health of such city, or officer performing the duties of such inspector, and the chief engineer having charge of sewers in such city, but in the event of there being no such officers in such city, then any two other officers having charge or supervision of the plumbing, drainage or sewerage, whom the mayor shall designate or appoint, or two members of the board of health of such city having like duties or acting in like capacities.

Constitutionality.— L. 1892, ch. 602, from which this statute was derived, was held constitutional as a police measure in the interest of the public health. People ex rel. Nechamcus v. Warden of the City Prison, 144 N. Y. 529 (1895).

A separate statute (L. 1896, ch. 803) regulates the practice of plumbing in New York City (see below).

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§ 45. **Examinations; conducting business without certificate prohibited.**— A person desiring or intending to conduct the trade, business or calling of a plumber or of plumbing in a city of this state as employing or master plumber, shall be required to submit to an examination before such examining board of plumbers as to his experience and qualifications for such trade, business or calling; and it shall not be lawful in any city of this state for a person to conduct such trade, business or calling, unless he shall have first obtained a certificate of competency from such board of the city in which he conducts or proposes to conduct such business.

§ 46. **Registration, when required.**— Every employing or master plumber carrying on his trade, business or calling in any city of this state shall register his name and address at the office of the board of health of the city in which he shall conduct such business, under such rules as the respective boards of health of each of the cities shall prescribe, and thereupon he shall be entitled to receive a certificate of such registration; provided, however, that such employing or master plumber shall at the time of applying for such registration hold a certificate of competency from an examining board of plumbers.

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§ 57. **Article limited.**— Nothing in this article shall affect or supersede any provision of chapter eight hundred and three of the laws of eighteen hundred and ninety-six, relating to plumbing in the city of New York.

Laws of 1896, Chapter 803.

An Act in relation to plumbing in the city of New York.

§ 1. Once in each year, every employing or master plumber carrying on his trade, business or calling in the city of New York, shall register his name and address at the office of the department of buildings in said city under such rules and regulations as said department shall prescribe, and thereupon he shall be entitled to receive a certificate of such registration from said department, provided, however, that such employing or master plumber shall, at the time of applying for such registration, hold a certificate of competency from the examining board of plumbers of said city. The time for making such registration shall be during the month of March in each year. Where, however, a person obtains a certificate of competency at a time other than in the month of March in any year, he may register within thirty days after obtaining such certificate of competency, but he must also register in the month of March in each year as above provided. Such registration may be cancelled by the superintendent of buildings for a violation of the rules and regulations for the plumbing and drainage of such city, duly adopted and in force pursuant to the provisions of this act, or whenever the person so registered ceases to be a master or employing plumber, after a hearing had before said superintendent, and upon a prior notice of not less than ten days, stating the grounds of complaint and served upon the person charged with the violation of the aforesaid rules and regulations. After the passage of this act it shall not be lawful for any person or co-partnership to engage in, or carry on the trade, business or calling of employing or master plumber in the city of New York, unless the name and address of such person and of each and every member of such co-partnership shall have been registered as above provided.

§ 2. In the city of New York it shall be unlawful for any person or persons to expose the sign of "Plumber" or "Plumbing" or a sign containing words of similar import and meaning, unless said person or persons shall have obtained a certificate of competency from the examining board of plumbers of said city and shall have registered as herein provided.

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The statute is unconstitutional in so far as it attempts to subject non-practicing or financial partners in a plumbing firm to examination and registration. Schnaier v. Navarre Hotel and Importation Co., 182 N. Y. 83 (June, 1905).

LICENSING OF MOVING-PICTURE MACHINE OPERATORS.

The General City Law, Chapter 21 of the Consolidated Laws.

§ 18. **License to operate moving picture apparatus.**— It shall not be lawful for any person or persons to operate any moving picture apparatus and its connections in a city of the first class unless such person or persons so operating such apparatus is duly licensed as hereinafter provided. Any person desiring to act as such operator shall make application for a license to so act to the mayor or licensing authority designated by the mayor, unless

the charter of said city so designates, which officer shall furnish to each applicant blank forms of application which the applicant shall fill out. Such officer shall make rules and regulations governing the examination of applicants and the issuance of licenses and certificates. A license shall not be granted to an applicant unless he shall have served as an apprentice under a licensed operator, for a period of not less than six months prior to the date of the application; the application must be made in writing, and contain a verified statement to that effect; it must be accompanied by the affidavit of the licensed operator to the same effect; before entering upon the period of apprenticeship the applicant must register his name and address with the officer issuing such license. The applicant shall be given a practical examination under the direction of the officer required to issue such license and if found competent as to his ability to operate moving picture apparatus and its connections shall receive within six days after such examination a license as herein provided. Such license may be revoked or suspended at any time by the officer issuing the same. Every license shall continue in force for one year from the date of issue unless sooner revoked or suspended. Every license, unless revoked or suspended, as herein provided, may at the end of one year from the date of issue thereof be renewed by the officer issuing it in his discretion upon application and with or without further examination as he may direct. Every application for renewal of license must be made within the thirty days previous to the expiration of such license. With every license granted there shall be issued to every person obtaining such license a certificate, certifying that the person named therein is duly authorized to operate moving picture apparatus and its connections. Such certificate shall be displayed in a conspicuous place in the room where the person to whom it is issued operates moving picture apparatus and its connections. No person shall be eligible to procure a license unless he shall be of full age. Any person offending against the provisions of this section, as well as any person who employs or permits a person not licensed as herein provided to operate moving picture apparatus and its connections, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding the sum of one hundred dollars, or imprisonment for a period not exceeding three months, or both. [*Added by L.* 1911, *ch.* 252.]

LAWS OF 1901, CHAPTER 466, BEING THE REVISED CHARTER OF GREATER NEW YORK.

§ 529-a. No person to operate moving picture apparatus and its connections without a license.—It shall not be lawful for any person or persons to operate any moving picture apparatus and its connections in the city of New York unless such person or persons so operating such apparatus is duly licensed as hereinafter provided. Any person desiring to act as such operator shall make application for a license to so act to the commissioner of water supply, gas and electricity of the city of New York who shall furnish to each applicant blank forms of application which the applicant shall fill out.

The commissioner of water supply, gas and electricity shall make rules and regulations governing the examination of applicants and the issuance of licenses and certificates.

The applicant shall be given a practical examination under the direction of the commissioner of water supply, gas and electricity and if found com-

petent as to his ability to operate moving picture apparatus and its connections shall receive within six days after such examination a license as herein provided. Such license may be revoked or suspended at any time by the commissioner of water supply, gas and electricity. Every license shall continue in force for one year from the date of issue unless sooner revoked or suspended. Every license, unless revoked or suspended, as herein provided, may at the end of one year from the date of issue thereof be renewed by the commissioner of water supply, gas and electricity in his discretion upon application and with or without further examination as said commissioner may direct. Every application for renewal of license must be made within the thirty days previous to the expiration of such license. With every license granted there shall be issued to every person obtaining such license a certificate, made by the commissioner of water supply, gas and electricity or such other officer as such commissioner may designate, certifying that the person named therein is duly authorized to operate moving picture apparatus and its connections. Such certificate shall be displayed in a conspicuous place in the room where the person to whom it is issued operates moving picture apparatus and its connections. No person shall be eligible to procure a license unless he shall be a citizen of the United States and of full age. Any person offending against the provisions of this section, as well as any person who employs or permits a person not licensed as herein provided to operate moving picture apparatus and its connections, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding the sum of one hundred dollars or imprisonment for a period not exceeding three months, or both, in the discretion of the court. [*Added by L.* 1910, *ch.* 654.]

INSPECTION OF STEAM BOILERS AND LICENSING OF STEAM ENGINEERS IN NEW YORK CITY.*

LAWS OF 1901, CHAPTER 466, BEING THE REVISED CHARTER OF GREATER NEW YORK.

§ 342. Steam boilers; inspection of; not to be operated without certificate. — Every owner, agent or lessee of a steam boiler or boilers in use in The City of New York shall annually, and at such convenient times and in such manner and in such form as may by rules and regulations to be made therefor by the police commissioner be provided, report to the said department the location of each steam boiler or boilers, and thereupon, and as soon thereafter as practicable, the sanitary company or such member or members thereof as may be competent for the duty herein described, and may be detailed for such duty by the police commissioner shall proceed to inspect such steam boilers, and all apparatus and appliances connected therewith; but no person shall be detailed for such duty except he be a practical engineer, and the strength and security of each boiler shall be tested by atmospheric and hydrostatic pressure and the strength and security of each boiler or boilers so tested shall have, under the control of said sanitary company, such

* For statute regulating examination of stationary engineers in Buffalo, see the charter (L. 1891, ch. 105, as am'd by L. 1899, ch. 557). As to general responsibility of persons in charge of steam boilers, see §§ 1052, 1893 of the Penal Law, given in part, under "Criminal liability for negligence," under DUTIES AND LIABILITIES OF EMPLOYERS AND EMPLOYEES, *ante*.

attachments, apparatus and appliances as may be necessary for the limitation of pressure, locked and secured in like manner as may be from time to time adopted by the United States inspectors of steam boilers or the secretary of the treasury, according to act of Congress, passed July twenty-fifth, eighteen hundred and sixty-six; and they shall limit the pressure of steam to be applied to or upon such boiler, certifying each inspection and such limit of pressure to the owner of the boiler inspected, and also to the engineer in charge of same, and no greater amount of steam or pressure than that certified in the case of any boiler shall be applied thereto. In limiting the amount of pressure, wherever the boiler under test will bear the same, the limit desired by the owner of the boiler shall be the one certified. Every owner, agent or lessee of a steam boiler or boilers in use in The City of New York shall, for the inspection and testing of such or each of such boilers, as provided for in this act, and upon receiving from the police department a certificate setting forth the location of the boiler inspected, the date of such inspection, the persons by whom the inspection was made, and the limit of steam pressure which shall be applied to or upon such boiler or each of such boilers pay annually to the police commissioner for each boiler, for the use of the police pension fund, the sum of two dollars, such certificate to continue in force for one year from the granting thereof when it shall expire, unless sooner revoked or suspended. Such certificate may be renewed upon the payment of a like sum and like conditions, to be applied to a like purpose. It shall not be lawful for any person or persons, corporation or corporations, to have used or operated within The City of New York any steam boiler or boilers except for heating purposes and for railway locomotives, without having first had such boiler or boilers inspected or tested and procured for such boiler or each of such boilers so used or operated the certificate herein provided for. The superintendent and inspectors of boilers, in the employ of the police department, in the city of Brooklyn, and the boiler inspectors in Long Island City, shall continue to discharge the duties heretofore devolved upon them, subject, however, to removal for cause, or when they are no longer needed.

§ 343. **No person to use, or act as engineer for, without certificate.**— It shall not be lawful for any person or persons to operate or use any steam boiler to generate steam except for railway locomotive engines, and for heating purposes in private dwellings, and boilers carrying not over ten pounds of steam and not over ten horse-power, or to act as engineer for such purposes in The City of New York without having a certificate of qualification therefor from practical engineers detailed as such by the police department, such certificate to be countersigned by the officer in command of the sanitary company of the police department of The City of New York and to continue in force one year, unless sooner revoked or suspended. Such certificate may be revoked or suspended at any time by the police commissioner upon the report of any two practical engineers, detailed as provided in this section, stating the grounds upon which such certificate should be revoked or suspended. Where such certificate shall have been revoked, as provided in this section, a like certificate shall not in any case be issued to the same person within six months from the date of the revocation of the former certificate held by such person.

Laws of 1897, Chapter 635, Amending Section 312 of the New York City Consolidation Act (Laws of 1882, Chapter 410).

* * * * * * * * * * *

* * And no owner, or agent of such owner, or lessee of any steam boiler to generate steam, shall employ any person as engineer or to operate such boiler unless such person shall first obtain a certificate as to qualification therefor from a board of practical engineers detailed as such by the police department, such certificate to be countersigned by the officer in command of the sanitary company of the police department of the city of New York. In order to be qualified to be examined for and to receive such certificate of qualification as an engineer, a person must comply, to the satisfaction of said board, with the following requirements:

1. He must be a citizen of the United States and over twenty-one years of age.

2. He must, on his first application for examination, fill out, in his own handwriting, a blank application to be prepared and supplied by the said board of examiners, and which shall contain the name, age, and place of residence of the applicant, the place or places where employed and the nature of his employment for five years prior to the date of his application, and a statement that he is a citizen of the United States. The application shall be verified by him, and shall, after the verification, contain a certificate signed by three engineers, employed in New York city, and registered on the books of said board of examiners as engineers working at their trade, certifying that the statements contained in such application are true. Such appliion shall be filed with said board.

3. The following persons, who have first complied with the provisions of subdivisions one and two of this section, and no other persons may make application to be examined for a license to act as engineer.

a. Any person who has been employed as a fireman, as an oiler, or as a general assistant under the instructions of a licensed engineer in any building or buildings in the city of New York, for a period of not less than five years.

b. Any person who has served as a fireman, oiler or general assistant to the engineer on any steamship or steamboat, for a period of five years, and shall have been employed for two years under a licensed engineer in a building in the city of New York, or any person who has served as a marine or locomotive engineer or fireman to a locomotive engineer for a period of five years and shall have been a resident of the state of New York for a period of two years. [*As am'd by L.* 1900, *ch.* 461.]

c. Any person who has learned the trade of machinist, or boiler maker or steamfitter and worked at such trade for three years exclusive of time served as apprentice, or while learning such trade, and also any person who has graduated as a mechanical engineer from a duly established school of technology, after such person has had two years' experience in the engineering department in any building or buildings in charge of a licensed engineer in the city of New York.

d. Any person who holds a certificate as engineer issued to him by any duly qualified board of examining engineers existing pursuant to law in any state or territory of the United States and who shall file with his application a copy of such certificate and an affidavit that he is the identical person to

whom said certificate was issued. If the board of examiners of engineers shall determine that the applicant has complied with the requirements of this section he shall be examined as to his qualifications to take charge of, and operate steam boilers and steam engines in the city of New York, and if found qualified said board shall issue to him a certificate of the third class. After the applicant has worked for a period of two years under his certificate of the third class, he may be again examined by said board for a certificate of the second class and if found worthy the said board may issue to him such certificate of the second class, and after he has worked for a period of one year under said certificate of the second class he may be examined for a certificate of the first class; and when it shall be made to appear to the satisfaction of said board of examiners that the applicant for either of said grades lacks mechanical skill, is a person of bad habits or is addicted to the use of intoxicating beverages he shall not be entitled to receive such grade of license and shall not be re-examined for the same until after the expiration of one year. Every owner or lessee, or the agent of the owner or lessee, of any steam boiler, steam generator, or steam engine aforesaid, and every person acting for such owner or agent is hereby forbidden to delegate or transfer to any person or persons other than the licensed engineer the responsibility and liability of keeping and maintaining in good order and condition any such steam boiler, steam generator or steam engine, nor shall any such owner, lessee or agent, enter into a contract for the operation or management of a steam boiler, steam generator or steam engine, whereby said owner, lessee or agent shall be relieved of the responsibility or liability for injury which may be caused to person or property by such steam boiler, steam generator or steam engine. Every engineer holding a certificate of qualification from said board of examiners shall be responsible to the owner, lessee, or agent employing him for the good care, repair, good order and management of the steam boiler, steam generator or steam engine in charge of, or run or operated by such engineer.

e. Any person or persons violating any provision of this section or of any of its subdivisions shall be guilty of a misdemeanor. [*Added by L.* 1900, *ch.* 709.]

LICENSING OF STATIONARY FIREMEN IN NEW YORK CITY.

LAWS OF 1901, CHAPTER 733.

AN ACT to provide for the licensing of firemen operating steam stationary boiler or boilers in the city of New York.

Section 1. It shall be unlawful for any fireman or firemen to operate steam stationary boiler or boilers in the city of New York, unless the fireman or firemen so operating such boiler or boilers are duly licensed as hereinafter provided. Such fireman or firemen to be under the supervision and direction of a duly licensed engineer or engineers.

§ 2. Should any boiler or boilers be found at any time operated by any person who is not a duly licensed fireman or engineer as provided by this act, the owner or lessee thereof shall be notified, and if after one week from such notification the same boiler or boilers is again found to be operated by a person or persons not duly licensed under this act, it shall be deemed prima facie evidence of a violation of this act.

§ 3. Any person desiring to act as a fireman shall make application for a license to so act, to the steam boiler bureau of the police department as now exists for licensing engineers, who shall furnish to each applicant blank forms of application, which application when filled out, shall be signed by a licensed engineer engaged in working as an engineer in the city of New York, who shall therein certify that the applicant is of good character, and has been employed as oiler, coalpasser or general assistant under the instructions of a licensed engineer on a building or buildings in the city of New York, or on any steamboat, steamship or locomotive for a period of not less than two years. The applicant shall be given a practical examination by the board of examiners detailed as such by the police commissioner and if found competent as to his ability to operate a steam boiler or boilers as specified in section one of this act shall receive within six days after such examination a license as provided by this act. Such license may be revoked or suspended at any time by the police commissioner upon the proof of deficiency. Every license issued under this act shall continue in force for one year from the date of issue unless sooner revoked as above provided. Every license issued under this act unless revoked as herein provided shall at the end of one year from date of issue thereof, be renewed by the board of examiners upon application and without further examination. Every application for renewal of license must be made within thirty days of the expiration of such license. With every license granted under this act there shall be issued to every person obtaining such license a certificate, certified by the officers in charge of the boiler inspection bureau. Such certificate shall be placed in the boiler room of the plant operated by the holder of such license, so as to be easily read.

§ 4. No person shall be eligible to procure a license under this act unless the said person be a citizen of the United States.

§ 5. All persons operating boilers in use upon locomotives or in government buildings, and those used for heating purposes carrying a pressure not exceeding ten pounds to the square inch, shall be exempt from the provisions of this act. Such license will not permit any person other than a duly licensed engineer to take charge of any boiler or boilers in the city of New York.

TRADE UNIONS.

[No special provision is made by the statutes of New York for incorporation of trade unions as business organizations. An association of workingmen for the purpose of undertaking co-operative insurance may incorporate under the Insurance Law; but nothing in this law or any of the laws relating to stock corporations provides for the actual business of trade unions in contracting with employers as the agents of the employees. This primary object of trade unions finds no recognition, of course, in the non-stock corporation laws; although the unions that have incorporated in New York have done so under the Membership Corporations Law, which applies to benevolent, charitable, scientific and missionary societies.

Trade unions do not in fact find incorporation necessary in order to obtain legal standing in the courts, since the law of this State has provided since 1851 that an unincorporated association consisting of seven or more persons may sue and be sued in the name of its president and treasurer (§§ 1919–1921 of the Code of Civil Procedure, as below).

Disobedience of an injunction addressed to an unincorporated association and "its each and every member" constitutes a criminal contempt even if the violators were not personally served with the order: People *ex rel.* Stearns v. Marr, 181 N. Y. 403 (1905).

As to union labels, see §§ 15 and 16 of the Labor Law, *ante.*]

ACTION BY OR AGAINST AN UNINCORPORATED ASSOCIATION.

CODE OF CIVIL PROCEDURE, ARTICLE I OF TITLE V OF CHAPTER XV.

§ 1919. An action or special proceeding may be maintained, by the president or treasurer of an unincorporated association, consisting of seven or more persons, to recover any property, or upon any cause of action, for or upon which all the associates may maintain such an action or special proceeding, by reason of their interest or ownership therein, either jointly or in common. An action may likewise be maintained by such president or treasurer to recover from one or more members of such association his or their proportionate share of any moneys lawfully expended by such association for the benefit of such associates, or to enforce any lawful claim of such association against such member or members. An action or special proceeding may be maintained, against the president or treasurer of such an association, to recover any property, or upon any cause of action, for or upon which the plaintiff may maintain such an action or special proceeding, against all the associates, by reason of their interest or ownership, or claim of ownership therein, either jointly or in common, or their liability therefor, either jointly or severally. Any partnership, or other company of persons, which has a president or treasurer, is deemed an association within the meaning of this section. [*As am'd by L.* 1900, *ch.* 184.]

The action, though in form against such officer, is in substance and reality against the association (Mason v. Holmes, 30 Misc. 719).

§ 1921. In such an action the officer against whom it is brought cannot be arrested; and a judgment against him does not authorize an execution to be issued against his property, or his person; nor does the docketing thereof bind his real property, or chattels real. Where such a judgment is for a sum of money, an execution issued thereupon must require the sheriff to satisfy the same, out of any personal or real property belonging to the association,

or owned, jointly or in common, by all the members thereof. [*As am'd by L.* 1898, *ch.* 293.]

An action for damages held to lie against an unincorporated trade union, Curran v. Galen, 152 N. Y. 33 (1897); see also Connell v. Stalker, 20 Misc. 423 (1897); Coons v. Chrystie, 24 Misc. 296 (1898); Matthews v. Shankland, 25 Misc. 604 (1898); Beattie v. Callanan, 67 App. Div. 14 (1901).

AUTHORIZING THE INCORPORATION OF LABOR ORGANIZATIONS FOR BENEVOLENT PURPOSES.

THE MEMBERSHIP CORPORATIONS LAW, CHAPTER 35 OF THE CONSOLIDATED LAWS.

§ 40. Purposes for which corporations may be formed under this article.— A membership corporation may be created under this article for any lawful purpose, except a purpose for which a corporation may be created under any other article of this chapter, or any other general law than this chapter.

Reviser's Note.—"This section is intended to make one complete general statement, including every object for which membership corporations ought to be permitted under a general law, instead of a long enumeration of particular purposes, requiring new legislation whenever incorporation is desired for a new purpose. The definition of a membership corporation in section 2 will prevent the formation of a stock corporation or of a mutual benefit insurance corporation under this article. See Matter of Lampson, 35 App. Div. 49, affd. in 161 N. Y. 511; People v. Johnson, 22 Misc. 150."

§ 41. Certificates of incorporation.— Five or more persons may become a membership corporation for any one of the purposes for which a corporation may be formed under this article or for any two or more of such purposes of a kindred nature, by making, acknowledging and filing a certificate, stating the particular objects for which the corporation is to be formed, each of which must be such as is authorized by this article; the name of the proposed corporation; the territory in which its operations are to be principally conducted; the town, village or city in which its principal office is to be located, if it be then practicable to fix such location; the number of its directors, not less than three nor more than thirty; and the names and places of residence of the persons to be its directors until its first annual meeting. Such certificate shall not be filed without the written approval, indorsed thereupon or annexed thereto, of a justice of the supreme court. * * * On filing such certificate, in pursuance of law, the signers thereof, their associates and successors, shall be a corporation in accordance with the provisions of such certificate. * * *

AUTHORIZING LABOR ORGANIZATIONS TO MAINTAIN OR CONSTRUCT BUILDINGS, HALLS OR LIBRARIES FOR THEIR USE.

THE BENEVOLENT ORDERS LAW, CHAPTER 3 OF THE CONSOLIDATED LAWS.

§ 7. Joint corporations.— * * * any number of trades unions, trades assemblies, trades associations or labor organizations, * * * may unite in forming a corporation for the purpose of acquiring, constructing, maintaining and managing a hall, temple or other building, or a home for the aged and indigent members of such order and their dependent widows and orphans, and of creating, collecting and maintaining a library for the use of

the bodies uniting to form such corporation. Each body hereafter uniting to form such corporation shall annually at a regular meeting thereof, held in accordance with its constitution and general rules and regulations or by-laws, elect a member thereof to represent it in such corporation. * * * The trustees so elected shall make, acknowledge and file with the secretary of state, a certificate stating the name of the corporation to be formed, its purposes and objects, the names and places of residence of the trustees, the names of the bodies which they respectively represent, the names of the bodies uniting to form the corporation and their location, and the name of the town, village or city and the county where such building is, or is to be located; and thereupon the several bodies so uniting shall be a corporation for the purposes specified in such certificate.

§ 9. Powers of joint corporations.— Such corporation may acquire real property in the town, village or city in which such hall, home, temple or building is or is to be located, and erect such building or buildings thereupon for the uses and purposes of the corporation, as the trustees may deem necessary, or repair, rebuild or reconstruct any building or buildings that may be thereupon and furnish and complete such rooms therein as may appear necessary for the use of such bodies or for any other purpose for which the corporation is formed; and may rent to other persons any room in such building or any portion of such real property. Until such real property shall be acquired or such building erected or made ready for use, the corporation may rent and sublet such rooms or apartments in such town, village or city as may be suitable or convenient for the use of the bodies mentioned in such certificate, or of such other bodies as may desire to use them, and the board of trustees may determine the terms and conditions on which rooms and apartments in such building or buildings, when erected, or which may be leased, shall be used and occupied. Before such corporation composed of not more than thirty bodies shall purchase or sell any real property, or erect or repair any building or buildings thereupon, and before it shall purchase any building or part of a building for the use of a corporation, it shall submit to the bodies constituting the corporation, the proposition to make such sale or purchase, or to erect or repair any such building or buildings, or to rent any building or part thereof, for the use of the corporation; and unless such proposition receives the approval of two-thirds of the bodies constituting the corporation, such proposition shall not be carried into effect. The evidence of the approval of such proposition by any such body shall be a certificate to that effect signed by the presiding officer and secretary of the body, or the officers discharging duties corresponding to those of the presiding officer and secretary, under the seal of such body. But where land is purchased for the purpose of erecting a hall, home or temple thereon the buildings upon such land at the time of such purchase, may be sold by the trustees without such consent. The powers of the board of trustees of every corporation created hereunder and composed of more than thirty bodies, respecting sales, purchases and repairs, shall be fixed by the by-laws adopted by the representatives of the various bodies composing such corporation, or shall be determined by such representatives when assembled in annual session. Every corporation created hereunder shall have power to enforce, at law or in equity, any legal contract which it may make with any of the bodies

composing it respecting the care and maintenance of members or other dependents of such body, the same as if such body or bodies were not members of the corporation. Any corporation created hereunder shall have power to take and hold real and personal estate by purchase, gift, devise or bequest subject to the provisions of law relating to devises and bequests by last will and testament or otherwise.

FORBIDDING LABOR ORGANIZATIONS TO DISCRIMINATE AGAINST MEMBERS OF THE NATIONAL GUARD.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 481. **Discrimination against members of the national guard.**— No association or corporation, constituted or organized for the purpose of promoting the success of the trade, employment, or business of the members thereof, shall by any constitution, rule, by-law, resolution, vote, or regulation, discriminate against any member of the national guard of the state of New York, because of such membership in respect of the eligibility of such member of the said national guard to membership in such association or corporation, or in respect of his right to retain said last mentioned membership; it being the purpose of this section and the section immediately preceding to protect a member of the said national guard from disadvantage in his means of livelihood and liberty therein but not to give him any preference or advantage on account of his membership of said national guard. A person who aids in enforcing any such provisions against a member of the said national guard with the intent to discriminate against him because of such membership, is guilty of a misdemeanor.

PREVENTING FRAUDULENT REPRESENTATION IN LABOR ORGANIZATIONS.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 1278. **Fraudulent representation in labor organizations.**— Any person who represents himself or herself to be a member of, or who claims to represent a labor organization which does not exist within the state, at the time of such representation, or who has in his or her possession a credential, certificate or letter of introduction bearing a fraudulent seal, or bearing the seal of a labor organization which has ceased to exist, and does not exist at the time of such representation, and attempts to gain admission by the use of said credential, certificate or letter of introduction, as a member of any convention, or meeting of representatives of labor organizations of the state, shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not less than twenty dollars nor more than fifty dollars, and imprisonment for not less than ten days nor more than thirty days in the jail of the county wherein such conviction is had, or by both such fine and imprisonment.

UNAUTHORIZED USE OF BADGES, TITLES, ETC.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 2240. **Unauthorized wearing or use of badge, name, title of officers, insignia, ritual or ceremony of certain orders and societies.**— 1. Any person

who wilfully wears the badge or the button of the Grand Army of the Republic, the insignia, badge or rosette of the Military Order of the Loyal Legion of the United States, or the Military Order of Foreign Wars of the United States, or the badge or button of the Spanish war veterans, or the Order of Patrons of Husbandry, or the Benevolent and Protective Order of Elks of the United States of America, or of any society, order or organization, of ten years' standing in the state of New York, or uses the same to obtain aid or assistance within this state, or wilfully uses the name of such society, order or organization, the titles of its officers, or its insignia, ritual or ceremonies, unless entitled to use or wear the same under the constitution and by-laws, rules and regulations of such order or of such society, order or organization, is guilty of a misdemeanor.

UNLAWFUL TO COMPEL EMPLOYEES TO AGREE NOT TO JOIN LABOR ORGANIZATIONS.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 531. **Coercion by employers.**—Any person or employer of labor, and any person of any corporation on behalf of such corporation, who shall hereafter coerce or compel any person, employee, laborer or mechanic, to enter into an agreement, either written or verbal, from such person, employee, laborer or mechanic, not to join or become a member of any labor organization, as a condition of such person securing employment, or continuing in the employment of any such person, employer or corporation, shall be deemed guilty of a misdemeanor. The penalty for such misdemeanor shall be imprisonment in a penal institution for not more than six months, or by a fine of not more than two hundred dollars, or by both such fine and imprisonment.

This statute imposes an unauthorized restraint upon the freedom to contract in relation to the purchase and sale of labor, and is unconstitutional: People v. Marcus, 185 N. Y. 257 (1906).

UNLAWFUL TO BRIBE REPRESENTATIVES OF LABOR ORGANIZATIONS.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 380. **Bribery of labor representatives.**—A person who gives or offers to give any money or other things of value to any duly appointed representative of a labor organization with intent to influence him in respect to any of his acts, decisions, or other duties as such representative, or to induce him to prevent or cause a strike by the employees of any person or corporation, is guilty of a misdemeanor; and no person shall be excused from attending and testifying, or producing any books, papers or other documents before any court or magistrate, upon any investigation, proceeding or triál, for a violation of this section, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to convict him of a crime or subject him to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be received against him upon any criminal investigation or proceeding.

Cf. "Corrupt influencing of employees," (Penal Law, § 439), under DUTIES AND LIABILITIES OF EMPLOYERS AND EMPLOYEES, *ante*.

INDUSTRIAL DISPUTES.

[The "right to strike," i. e., to quit work in concert, is controlled by the statutes and judicial decisions respecting combinations. Sections 580 and 582 of the Penal Law define conspiracies, or unlawful combinations. The latter section expressly legalizes a combination (strike) for the purpose of maintaining or advancing the rate of wages, and the courts have broadened this authorization to include any peaceable and orderly strike of wage workers, *not to harm others but to improve their own condition,* within which lawful purpose may be a strike by a trade union to procure the discharge of an outsider and the employment of its own members: Nat'l Protective Assn. v. Cumming, 170 N. Y. 315; Wunch v. Shankland, 179 N. Y. 545, Mem. But concerning strikes for the "closed shop," see that topic below. Similarly, a lockout is legal if no malice is shown (City Trust, Safe Deposit & Surety Co. v. Waldhauer, 47 Misc. 7).

INTIMIDATION.—A strike that has a lawful purpose becomes unlawful if conducted by unlawful means. Thus it is contrary to law to use or threaten to use violence, force or intimidation in the prosecution of a strike (§ 530 of the Penal Law, defining coercion); or to endanger life by refusal to labor (§ 1910); or interfere with passengers in public conveyances (§ 720), etc.

Violation of an injunction order against illegal interference with new employees or the part of strikers constitutes criminal contempt and is punishable as such even though the individual members of the union were not personally served with the order: People *ex rel.* Stearns v. Marr, 181 N. Y. 463 (1905).

PICKETING is not defined by statute, but by the interpretation placed by the courts on the above-mentioned laws relating to coercion. One of the most authoritative discussions of "picketing" by Federal courts is in Union Pacific Ry. Co. v. Ruef (120 Fed. Rep. 102), and by the New York courts in a unanimous decision of the Second Appellate Division, December, 1904, which is, in part, as follows:

"'Picketing' may simply mean the stationing of men for observation. If in the doing of this act, solely for such purpose, there be no molestation or physical annoyance, or let or hindrance of any person then it can not be said that such an act is, *per se,* unlawful. But 'picketing' may also mean the stationing of a man or men to coerce or to threaten, or to intimidate or to halt or to turn aside against their will those who would go to and from the picketed place to do business, or to work, or to seek work therein, or in some other way to hamper, hinder, or harass the free dispatch of business by the employer. In that case, picketing may well be said to be unlawful. * * * I may add that I am not prepared to say that all picketing which goes no further than 'persuasion and entreaty' of those who are about to work or to seek work or to do business in the picketed place is absolutely lawful. A wayfarer upon the public street should be free for peaceful travel. No man against my will has the legal right to occupy the public street to arrest my course or to join me on my way, be he ever so polite or gentle in his insistence. There may be no intimidation, and yet an interruption of peaceful travel. There may be annoyance without danger."—Mills v. U. S. Printing Co., 99 App. Div. 605.

BOYCOTTING.—The ruling of the Court of Appeals in the Cumming case, cited above, modified the law regarding boycotts, so that the courts do not find in a boycott *per se* the malicious purpose, or an attempt to injure, that constitutes conspiracy (Foster v. Retail Clerks' Protective Association, 39 Misc. 48 [1902]; Butterick Pub. Co v. Typographical Union No. 6, 50 Misc. 1 [1906]). The injury inflicted may be only an incident of the act whereby the ultimate end is gained (Mills v. U. S. Print. Co., 99 App. Div. 605). In this case the court unanimously indorsed Bouvier's statement, "A boycott is not unlawful unless attended with some act which in itself is illegal," and continued: "I think that the verb 'to boycott' does not necessarily signify that the doers employ violence, intimidation or other unlawful coercive means, but that it may be correctly used in the sense of the act of a combination in refusing to have business dealings with another until he removes or ameliorates conditions which are deemed inimical to the welfare of the members of the combination, or some of them, or grants concessions which are deemed to make for that purpose. And as such a combination may be

formed and held together by argument, persuasion, entreaty or by the 'touch of nature,' and may accomplish its purpose without violence or other unlawful means, i. e., simply by abstention, I think it cannot be said that 'to boycott' is to offend the law." In agreement with this view, see the opinion of the Supreme Court of Missouri (1901) in Marx & Hass Jeans Clothing Co. v. Watson (67 S. W. Rep. 391). On the other hand, the earlier rule is maintained in the cases of Davis Machine Co. v. Robinson (41 Misc. 329) and People v. McFarlin (43 Misc. 599). A boycott which affects inter-state commerce is illegal under the Federal anti-trust law: Loewe v. Lawlor, 208 U. S. 274 (the hatters' case).

BLACKLISTING.— The blacklist is in principle a form of the boycott, but is carried on in such secrecy that it has seldom come before the courts.

THE "CLOSED SHOP."— It has been held that an agreement providing for the closed shop (i. e., exclusive employment of members of a trade union) is not in violation of law and will be enforced by the courts: Jacobs v. Cohen, 183 N. Y. 207 (1905); Nat'l Fire Proofing Co. v. Mason Builders' Assn., 145 Fed. Rep. 260, (June, 1906). Kissam v. U. S. Printing Co., 199 N. Y. 76, affirming 128 App. Div. 889. But no agreement whatever makes it lawful for members of a union to coerce or maliciously interfere with non-union men (Curran v. Galen, 52 N. Y. 33, decided in 1897 and reaffirmed in Jacobs case just cited. *Cf.* also Beattie v. Callanan, 82 App. Div. 7). Further, a strike for a closed shop throughout an entire trade in a locality has been held illegal as constituting conspiracy to deprive men of the exercise of the right to work (Schwartz v. Int'l Ladies' Garment Workers' Union, 68 Misc. 528). Similarly a requirement by employers generally in a community that employees must be members of a particular union is illegal (McCord v. Thompson-Starrett Co., 129 App. Div. 130, aff'd in 198 N. Y. 587). A strike to prevent use by a union firm of materials manufactured by a non-union firm has been held illegal (Irving v. Joint District Council, 180 Fed. Rep. 896; Newton Co. v. Erickson, 70 Misc. 291); also a strike to prevent manufacture of goods for a non-union firm (Schlang v. Ladies' Waist Makers' Union, 67 Misc. 222); both these being regarded as unlawful interference with an employer's freedom. An agreement binding workmen to work only for members of an employers' association has been held illegal (People v. Miller in Magistrate's Court, New York City, August 20, 1904).

CONSPIRACY, INTIMIDATION, EXTORTION, ETC.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 580. **Definition and punishment of conspiracy.**— If two or more persons conspire:

1. To commit a crime; or

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5. To prevent another from exercising a lawful trade or calling, or doing any other lawful act, by force, threats, intimidation, or by interfering or threatening to interfere with tools, implements or property belonging to or used by another, or with the use or employment thereof; or

6. To commit any act injurious to the public health, to public morals, or to trade or commerce, or for the perversion or obstruction of justice, or of the due administration of the laws;

Each of them is guilty of a misdemeanor.

§ 581. **Conspiracies against peace of the state.**— If two or more persons, being out of this state, conspire to commit any act against the peace of this state, the commission or attempted commission of which, within this state, would be treason against the state, they are punishable by imprisonment in a state prison not exceeding ten years.

§ 582. **Punishable conspiracies.**— No conspiracy is punishable criminally unless it is one of those enumerated in the last two sections, and the orderly

and peaceable assembling or co-operation of persons employed in any calling, trade or handicraft for the purpose of obtaining an advance in the rate of wages or compensation, or of maintaining such rate, is not a conspiracy.

§ 1910. **Endangering life by refusal to labor.**— A person who wilfully and maliciously, either alone or in combination with others, breaks a contract of service or hiring, knowing, or having reasonable cause to believe, that the probable consequence of his so doing will be to endanger human life, or to cause grievous bodily injury, or to expose valuable property to destruction or serious injury, is guilty of a misdemeanor.

§ 1480. **Depriving members of national guard of employment.**— A person who, either by himself or with another, wilfully deprives a member of the national guard of his employment, or prevents his being employed by himself or another, or obstructs or annoys said member of said national guard, or his employer, in respect of his trade, business, or employment, because said member of said national guard is such member, or dissuades any person from enlistment in the said national guard by threat of injury to him in case he shall so enlist, in respect of his employment, trade, or business, is guilty of a misdemeanor.

§ 530. **Coercing another person a misdemeanor.**— A person, who with a view to compel another person to do or to abstain from doing an act which such other has a legal right to do or to abstain from doing, wrongfully and unlawfully,

1. Uses violence or inflicts injury upon such other person or his family, or a member thereof, or upon his property, or threatens such violence or injury; or

2. Deprives any such person of any tool, implement, or clothing, or hinders him in the use thereof; or

3. Uses or attempts the intimidation of such person by threats or force;

Is guilty of a misdemeanor.

One who advises or induces another to commit assault or attempt other intimidation is also guilty of violating this prohibition, thus:

§ 2. *Definition of principal.*— **A person concerned in the commission of a crime,** whether he directly commits the act constituting the offense or aids and abets in its commission, and whether present or absent, and a person who directly or indirectly counsels, commands, induces or procures another to commit a crime, is a principal.

§ 850. **Extortion defined.**— Extortion is the obtaining of property from another, with his consent, induced by a wrongful use of force or fear, or under cover of official right.

§ 851. **What threats may constitute extortion.**— Fear, such as will constitute extortion, may be induced by an oral or written threat:

1. To do an unlawful injury to the person or property of the individual threatened, or to any relative of his or to any member of his family; or,

2. To accuse him, or any relative of his or any member of his family, of any crime; or,

3. To expose, or impute to him, or any of them, any deformity or disgrace; or.

4. To expose any secret affecting him or any of them; or,

5. To kidnap him or any relative of his or member of his family; or

6. To injure his person or property or that of any relative of his or member of his family by the use of weapons or explosives. [*As am'd by L.* 1911, *chs.* 121 *and* 602.]

§ 852. **Punishment of extortion.**— A person who extorts any money or other property from another, under circumstances not amounting to robbery, is punishable by imprisonment not exceeding fifteen years, if the same is done by means of force or a threat mentioned in section eight hundred and fifty or in either of the first four subdivisions of section eight hundred and fifty-one, and by imprisonment for not less than five years nor more than twenty years if the same is done by means of a threat mentioned in subdivisions five or six of the latter section. [*As am'd by L.* 1909, *ch.* 368 *and L.* 1911, *ch.* 602.]

Obtaining money by threats or by the continuance of a boycott as described constitutes the crime of extortion under the above sections. Those present and abetting when the money is paid or uniting in the acts that lead to the payment or the agreement to pay, though not present when the money is received, are each liable as principals. Whether the money is shared personally or placed in a fund to pay the expenses of the boycott is of no consequence as affecting the crime. People v. Wilzig, N. Y. Cr. 403 (1886). A labor leader was convicted of extortion for having accepted a sum of money from an employer to pay for "waiting time," as alleged, of the striking employees. People v. Barondess, 41 N. Y. 659 (1891). Defendant, the head of a labor organization, was properly charged with extortion when evidence showed that he had demanded and received money as the price of abandoning a boycott undertaken to coerce plaintiffs into obedience to his commands as to the number of apprentices they should employ. People v. Hughes, 137 N. Y. 29 (1893). Defendant, president of a labor union, was convicted of extortion because he had obtained money from a contractor under threat of continuing a strike. People v. Weinsheimer, 117 App. Div. 603 (Feb., 1907).

§ 720. **Relating to disorderly conduct on public conveyances.**— Any person who shall by any offensive or disorderly act or language, annoy or interfere with any person in any place or with the passengers of any public stage, railroad car, ferry boat, or other public conveyance, or who shall disturb or offend the occupants of such stage, car, boat or conveyance, by any disorderly act, language or display, although such act, conduct or display may not amount to an assault or battery, shall be deemed guilty of a misdemeanor.

§ 43. **Penalty for acts for which no punishment is expressly prescribed.**— A person who wilfully and wrongfully commits any act which seriously injures the person or property of another, or which seriously disturbs or endangers the public peace or health, or which openly outrages public decency, for which no other punishment is expressly prescribed by this chapter, is guilty of a misdemeanor; but nothing in this chapter contained shall be so construed as to prevent any person from demanding an increase of wages, or from assembling and using all lawful means to induce employers to pay such wages to all persons employed by them, as shall be a just and fair compensation for services rendered.

THE "ANTI-PINKERTON" ACT: PROHIBITING THE APPOINTMENT OF NON-RESIDENTS AS SPECIAL OFFICERS TO PRESERVE THE PUBLIC PEACE.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 1845. **Special peace officers to be citizens.**— No sheriff of a county, mayor of a city, or officials, or other person authorized by law to appoint special deputy sheriffs, special constables, marshals, policemen, or other peace officers in this state, to preserve the public peace or quell public disturbance, shall hereafter, at the instance of any agent, society, association or corporation,

or otherwise, appoint as such special deputy, special constable, marshal, policeman, or other peace officer, any person who shall not be a citizen of the United States and a resident of the state of New York, and entitled to vote therein at the time of his appointment, and a resident of the same county as the mayor or sheriff or other official making such appointment; and no person shall assume or exercise the functions, powers, duties or privileges incident and belonging to the office of special deputy sheriff, special constables, marshal or policeman, or other peace officer, without having first received his appointment in writing from the authority lawfully appointing him.

A violation of the provisions of this section is a misdemeanor.

§ 1846. **Making arrest without lawful authority.**— Any person who shall, in this state, without due authority, exercise, or attempt to exercise the functions of, or hold himself out to any one as a deputy sheriff, marshal, or policeman, constable or peace officer, or any public officer, or person pretending to be a public officer, who, unlawfully, under the pretense or color of any process, arrests any person or detains him against his will, or seizes or levies upon any property, or dispossesses any one of any lands or tenements without a regular process therefor, is guilty of a misdemeanor. But nothing herein contained shall be deemed to affect, repeal or abridge the powers authorized to be exercised under sections one hundred and two, one hundred and four, one hundred and sixty-nine, one hundred and eighty-three, eight hundred and ninety-five, eight hundred and ninety-six and eight hundred and ninety-seven of the code of criminal procedure; or under section ninety of the railroad law; or under section eleven hundred and forty-seven of this chapter. All places kept for summer resorts and the grounds of racing associations in the counties of New York, Kings and Westchester, are hereby exempted from the provisions of this section.

Cf. the Railroad Law, § 88, under "Conductors and Trainmen as Policemen" under Railway Labor, *ante*.

REGULATION OF EMPLOYMENT AGENCIES, BOARDING HOUSES, ETC.*

EMPLOYMENT OFFICES IN CITIES.

[The original act (L. 1904, ch. 432, afterwards amended by L. 1906, ch. 327) from which the following sections were derived, was held to be a constitutional exercise of the police power: People *ex rel.* Armstrong v. Warden of the City Prison, 183 N. Y. 223 (1905).

The amendment of 1910 provides that said amendment "shall not affect the licenses issued pursuant to such article prior to the taking effect of this act until the expiration of such licenses or unless such licenses are terminated as provided herein. Such amendment shall not affect the tenure of office of the commissioner of licenses, the deputy commissioner of licenses or of inspectors, or of the employees to whom the enforcement of such law relative to employment agencies is now entrusted, or any action, or cause of action, arising from the provisions of article eleven of the general business law."]

GENERAL BUSINESS LAW, CHAPTER 20 OF THE CONSOLIDATED LAWS.

ARTICLE 11.

(*As am'd by L.* 1910, *ch.* 700.)

Employment Agencies.

Section 170. Application of article.
171. Definitions.
172. License required.
173. Application for license.
174. Procedure upon application; grant of license.
175. Form and contents of license.
176. Assignment or transfer of license; change of location.
177. Bonds and license fees.
178. Action on bond.
179. Registers to be kept.
180. Statements to be filed in theatrical employment agencies
181. Card to be furnished to applicant for employment.
182. Employment contracts.
183. Theatrical employment contracts.
184. Inspection of registers, books and records.
185. Fees charged by persons conducting employment agencies.
186. Return of fees.
187. Receipt for fees paid.
188. Copies of law to be posted.
189. False or misleading advertisements and information.
190. Prohibition as to employment agencies.
191. Enforcement of provisions of this article.
192. Penalties for violations.

§ 170. Application of article.— 1. This article shall apply to all cities of the state, except that the provisions hereof relating to domestic and commercial employment agencies shall not apply to cities of the third class. This article does not apply to employment agencies which procure employment for persons as teachers exclusively, or employment for persons in technical or executive positions in recognized educational institutions; to registries conducted by duly incorporated associations of registered nurses; and employment bureaus conducted by registered medical institutions or duly incorporated hospitals. Nor does such article apply to departments or

* *Cf.* § 156 of the Labor Law, *ante*, regulating immigrant lodging houses.

bureaus maintained by persons for the purpose of securing help or employees, where no fee is charged.

§ 171. **Definitions.**— 1. When used in this article the following terms are defined as herein specified. The term "person" means and includes any individual, company, society, association, corporation, manager, contractor, subcontractor or their agents or employees.

2. The term "employment agency" means and includes the business of conducting, as owner, agent, manager, contractor, subcontractor or in any other capacity an intelligence office, domestic and commercial employment agency, theatrical employment agency, general employment bureau, shipping agency, nurses' registry, or any other agency or office for the purpose of procuring or attempting to procure help or employment or engagements for persons seeking employment or engagements, or for the registration of persons seeking such help, employment or engagement, or for giving information as to where and of whom such help, employment or engagement may be procured, where a fee or other valuable consideration is exacted, or attempted to be collected for such services, whether such business is conducted in a building or on the street or elsewhere.

3. The term "theatrical employment agency" means and includes the business of conducting an agency, bureau, office or any other place for the purpose of procuring or offering, promising or attempting to provide engagements for circus, vaudeville, theatrical and other entertainments or exhibitions or performances, or of giving information as to where such engagements may be procured or provided, whether such business is conducted in a building, on the street or elsewhere.

4. The term "theatrical engagement" means and includes any engagement or employment of a person as an actor, performer or entertainer in a circus, vaudeville, theatrical and other entertainment, exhibition or performance.

5. The term "emergency engagement" means and includes an engagement which has to be performed within twenty-four hours from the time when the contract for such engagement is made.

6. The term "fee" means and includes any money or other valuable consideration paid or promised to be paid for services rendered or to be rendered by any person conducting an employment agency of any kind under the provisions of this article. Such term includes any excess of money received by any such person over what has been paid out by him for the transportation, transfer of baggage, or board and lodging for any applicant for employment; such term also includes the difference between the amount of money received by any such person who furnishes employees, performers or entertainers for circus, vaudeville, theatrical and other entertainments, exhibitions or performances, and the amount paid by him to the said employees, performers or entertainers whom he hires or provides for such entertainments, exhibitions or performances.

7. The term "privilege" means and includes the furnishing of food, supplies, tools or shelter to contract laborers, commonly known as commissary privileges.

§ 172. **License required.**— A person shall not open, keep, maintain or carry on any employment agency, as defined in the preceding section, unless he

shall have first procured a license therefor as provided in this article from the mayor or the commissioner of licenses of the city in which such person intends to conduct such agency. Such license shall be posted in a conspicuous place in said agency. Any person who shall open or conduct such an employment agency without first procuring said license shall be guilty of a misdemeanor and shall be punishable by a fine of not less than twenty-five dollars and not more than two hundred and fifty dollars, or by imprisonment for a period of not more than one year, or both, at the discretion of the court.

See requirement of registration with State Commissioner of Labor under § 155 of the Labor Law, *ante*.

§ 173. Application for license.— An application for such license shall be made to the mayor or commissioner of licenses, in case such office shall have been established as herein provided. Such application shall be written and in the form prescribed by the mayor or commissioner of licenses, and shall state the name and address of the applicant; the street and number of the building or place where the business is to be conducted; whether the applicant proposes to conduct a lodging house for the unemployed separate from the agency which he proposes to conduct; the business or occupation engaged in by the applicant for at least two years immediately preceding the date of the application. Such application shall be accompanied by the affidavits of at least two reputable residents of the city to the effect that the applicant is a person of good moral character.

§ 174. Procedure upon application; grant of license.— Upon the receipt of an application for a license the mayor or commissioner of licenses shall cause the name and address of the applicant, and the street and number of the place where the agency is to be conducted, to be posted in a conspicuous place in his public office. The said mayor or commissioner of licenses shall investigate or cause to be investigated the character and responsibility of the applicant and shall examine or cause to be examined the premises designated in such application as the place in which it is proposed to conduct such agency. Any person may file, within one week after such application is so posted in the said office, a written protest against the issuance of such license. Such protest shall be in writing and signed by the person filing the same or his authorized agent or attorney, and shall state reasons why the said license should not be granted. Upon the filing of such protest the mayor or commissioner of licenses shall appoint a time and place for the hearing of such application, and shall give at least five days' notice of such time and place to the applicant and person filing such protest. The said mayor or commissioner of licenses may administer oaths, subpœna witnesses and take testimony in respect to the matters contained in such application and protest or complaints of any character for violations of this article, and may receive evidence in the form of affidavits pertaining to such matters. If it shall appear upon such hearing or from the inspection or examination made by the said mayor or commissioner of licenses that the said protest is sustained or that the applicant is not a person of good character, or that the place where such agency is to be conducted is not a suitable place therefor, or that the applicant has not complied with the

provisions of this article, the said application shall be denied and a license shall not be granted. Each application should be granted or refused within thirty days from the date of its filing. The license shall run to the first Tuesday of May next following the date thereof and no later, unless sooner revoked by the mayor or the commissioner of licenses. No license shall be granted to a person to conduct the business of an employment agency in rooms used for living purposes or where boarders or lodgers are kept or where meals are served or where persons sleep or in connection with a building or premises where intoxicating liquors are sold to be consumed on the premises, excepting cafes and restaurants in office buildings.

§ 175. **Form and contents of license.**— Every license shall contain the name of the person licensed, a designation of the city, street and number of the house in which the person licensed is authorized to carry on the said employment agency, and the number and date of such license. Such license shall not be valid to protect any other than the person to whom it is issued or any place other than that designated in the license and shall not be transferred or assigned to any other person unless consent is obtained from the mayor or commissioner of licenses, as hereinafter provided. If such licensed person shall conduct a lodging house for the unemployed separate and apart from such agency, it shall be so designated in the license.

§ 176. **Assignment or transfer of license; change of location.**—A license granted as provided in this article shall not be assigned or transferred without the consent of the mayor or commissioner of licenses. Applications for such consent shall be made in the same manner as an application for a license, and all the provisions of sections one hundred and seventy-three and one hundred and seventy-four relating to the granting of applications for licenses, including the procedure upon such application and the posting of the names and addresses of applicants shall apply to applications for such consent. No license fee shall be required upon such assignment or transfer. The location of an employment agency shall not be changed without the consent of the mayor or commissioner of licenses, and such change of location shall be indorsed upon the license.

§ 177. **Bonds and license fees.**— 1. Every person licensed under the provisions of this act to carry on the business of an employment agency shall pay to the mayor or the commissioner of licenses a license fee of twenty-five dollars before such license is issued. He shall also deposit before such license is issued, with the commissioner of licenses, in every city where there is a commissioner of licenses, or clerk of the city, a bond in the penal sum of one thousand dollars with two or more sureties or a duly authorized surety company, to be approved by the mayor or the commissioner of licenses.

2. The bond executed as provided in the preceding subdivision of this section shall be payable to the people of the city in which any such license is issued and shall be conditioned that the person applying for the license will comply with this article, and shall pay all damages occasioned to any person by reason of any misstatement, misrepresentation, fraud or deceit, or any unlawful act or omission of any licensed person, his agents or employees, while acting within the scope of their employment, made, com-

mitted or omitted in the business conducted under such license, or caused by any other violation of this article in carrying on the business for which such license is granted.

3. If at any time, in the opinion of the mayor, or the commissioner of licenses, the sureties or any of them shall become irresponsible the person holding such license shall, upon notice from the mayor or the commissioner of licenses, give a new bond, subject to the provisions of this section. The failure to give a new bond within ten days after such notice, in the discretion of the mayor or commissioner of licenses, shall operate as a revocation of such license and the license shall be thereupon returned to the mayor or the commissioner of licenses who shall destroy the same.

§ 178. **Action on bond; suits how brought.**— All claims or suits brought in any court against any licensed person may be brought in the name of the person damaged upon the bond deposited with city by such licensed person as provided in section one hundred and seventy-seven and may be transferred and assigned as other claims for damages in civil suits. The amount of damages claimed by plaintiff, and not the penalty named in the bond, shall determine the jurisdiction of the court in which the action is brought. Where such licensed person has departed from the state with intent to defraud his creditors or to avoid the service of a summons in an action brought under this section, service shall be made upon the surety as prescribed in the code of civil procedure. A copy of such summons shall be mailed to the last known post-office address of the residence of the licensed person and the place where he conducted such employment agency, as shown by the records of the mayor or commissioner of licenses. Such service thereof shall be deemed to be made when not less than the number of days shall have intervened between the dates of service and the return of the same as provided by the civil procedure for the particular court in which suit has been brought.

§ 179. **Registers to be kept.**— It shall be the duty of every licensed person to keep a register, approved by the mayor or the commissioner of licenses, in which shall be entered, in the English language, the date of the application for employment; the name and address of the applicant to whom employment is promised or offered, or to whom information or assistance is given in respect to such employment; the amount of the fee received, and whenever possible, the names and addresses of former employers or persons to whom such applicant is known. Such licensed person shall also enter in the same or in a separate register, approved by the mayor or commissioner of licenses, in the English language, the name and address of every applicant accepted for help, the date of such application, kind of help requested, the names of the persons sent, with the designation of the one employed, the amount of the fee received and the rate of wages agreed upon. No such licensed person, his agent or employees, shall make any false entry in such registers. It shall be the duty of every licensed person, whenever possible, to communicate orally or in writing with at least one of the persons mentioned as references for every applicant for work in private families, or employed in a fiduciary capacity, and the result of such investigation shall be kept on file in such agency; provided, that if

the applicant for help voluntarily waives in writing such investigation of references by the licensed person, failure on the part of the licensed person to make such investigation shall not be deemed a violation of this section.

See also requirements as to register in § 155 of the Labor Law, *ante*.

§ 180. **Statements to be filed in theatrical employment agencies.**— Every licensed person conducting a theatrical employment agency, before making a theatrical engagement, except an emergency engagement, for any person with any applicant for services in any such engagement shall prepare and file in such agency a written statement signed and verified by such licensed person setting forth how long the applicant has been engaged in the theatrical business. Such statement shall set forth whether or not such applicant has failed to pay salaries or left stranded any companies, in which such applicant and, if a corporation any of its officers or directors, have been financially interested during the five years preceding the date of application and, further, shall set forth the names of at least two persons as references. If such applicant is a corporation, such statement shall set forth the names of the officers and directors thereof and the length of time such corporation or any of its officers have been engaged in the theatrical business and the amount of its paid-up capital stock. If any allegation in such written, verified statement is made upon information and belief, the person verifying the statement shall set forth the sources of his information and the grounds of his belief. Such statement so on file shall be kept for the benefit of any person whose services are sought by any such applicant as employer.

§ 181. **Card to be furnished to applicant for employment.**— Every such licensed person shall give to each applicant for domestic or commercial employment a card or printed paper containing the name of the applicant, the name and address of such employment agency and the written name and address of the person to whom the applicant is sent for employment; kind of services to be performed; rate of wages or compensation; the time of such services, if definite, and if indefinite, to be so stated; and the name and address of person authorizing the hiring of such applicant, and the cost of transportation if the services are required outside of the city where such agency is located.

§ 182. **Employment contract.**— A licensed person shall not induce or attempt to induce any employee to leave his employment with a view to obtaining other employment through such agency. Whenever such licensed person or any other acting for him, agrees to send one or more persons to work as contract laborers in any one place outside the city in which such agency is located, the said licensed person shall file with the mayor or commissioner of licenses, within five days after the contract is made, a statement containing the following items: Name and address of the employer; name and address of the employee; nature of the work to be performed, hours of labor; wages offered, destination of the persons employed, and terms of transportation. A duplicate copy of this statement shall be given to the applicant for employment, in a language which he is able to understand, before he leaves the city.

§ 183. Theatrical employment; contracts.— Every licensed person who shall procure for or offer to an applicant a theatrical engagement shall have executed in duplicate a contract containing the name and address of the applicant; the name and address of the employer of the applicant and of the person acting for such employer in employing such applicant; the time and duration of such engagement; the amount to be paid to such applicant; the character of entertainment to be given or services to be rendered; the number of performances per day or per week that are to be given by said applicant; if a vaudeville engagement, the name of the person by whom the transportation is to be paid, and if by the applicant, either the cost of the transportation between the places where said entertainment or services are to be given or rendered, or the average cost of transportation between the places where such services are to be given or rendered; and if a dramatic engagement the cost of transportation to the place where the services begin if paid by the applicant; and the gross commission or fees to be paid by said applicant and to whom. Such contracts shall contain no other conditions and provisions except such as are equitable between the parties thereto and do not constitute an unreasonable restriction of business. The form of such contract shall be first approved by the mayor or commissioner of licenses and his determination shall be reviewable by certiorari. One of such duplicate contracts shall be delivered to the person engaging the applicant and the other shall be retained by the applicant. The licensed person procuring such engagement for such applicant shall keep on file or enter in a book provided for that purpose a copy of such contract.

§ 184. Inspection of registers, books and records.— All registers, books, records and other papers required to be kept pursuant to this article in any employment agency shall be open at all reasonable hours to the inspection of the mayor or commissioner of licenses, and to any duly authorized agent or inspector of such mayor or commissioner.

See also power of State Commissioner of Labor to inspect in §§ 153 and 155 of Labor Law, *ante*.

§ 185. Fees charged by persons conducting employment agencies.—1. The gross fees of licensed persons charged to applicants for employment as lumbermen, agricultural hands, coachmen, grooms, hostlers, seamstresses, cooks, waiters, waitresses, scrub-women, laundresses, maids, nurses (except professionals), and all domestics and servants, unskilled workers and general laborers, shall not in any case exceed ten per centum of the first month's wages, and for all other applicants for employment, shall not exceed the amount of the first week's wages or salary unless the period of employment is for at least one year, and at a yearly salary, and in that event the gross fee charged shall not exceed five per centum of the first year's salary, except when the employment or engagement is of a temporary nature, not to exceed in any single contract one month, then the fee shall not exceed ten per centum of the salary paid.

2. The gross fees of licensed persons charged to applicants for theatrical engagements by one or more such licensed persons, individually or collectively procuring such engagements, except vaudeville or circus engage-

ments, shall not in any case exceed the gross amount of five per centum of the wages or salary of the engagement when the engagement is less than ten weeks; and an amount of five per centum of the salary or wages per week for ten weeks of a season's engagement constituting ten weeks or more. The gross fees charged by such licensed persons to applicants for vaudeville or circus engagements by one or more such licensed persons, individually or collectively, procuring such engagement, shall not in any case exceed five per centum of the salary or wages paid. The gross fees for a theatrical engagement, except an emergency engagement, shall be due and payable at the end of each week of the engagement, and shall be based on the amount of compensation actually received for such engagement, except when such engagement is unfulfilled through any act within the control of the applicant for such engagement.

3. A licensed person conducting any employment agency under this article shall not receive or accept any valuable thing or gift as a fee or in lieu thereof. No such licensed person shall divide or share, either directly or indirectly, the fees herein allowed, with contractors, subcontractors, employers or their agents, foremen or any one in their employ, or if the contractors, subcontractors or employers be a corporation, any of the officers, directors or employees of the same to whom applicants for employment or theatrical engagements are sent.

4. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction of any licensed person for any violation thereof shall be subject to a fine of not less than twenty-five dollars and not more than two hundred and fifty dollars, or imprisonment for not more than one year, or both, at the discretion of the court, and the mayor or commissioner of licenses shall forthwith cancel and revoke the license of such person.

§ 186. **Return of fees.**— 1. In case a person applying for help or employment of a domestic or commercial employment agency shall not accept help or obtain employment through such agency, then the licensed person conducting such agency shall on demand repay the full amount of the said fee, allowing three days' time to determine the fact of the applicant's failure to obtain help or employment. If an employee furnished fails to remain one week in the situation, a new employee shall be furnished to the applicant for help if he so elects, or three-fifths of the fee returned, within four days of demand; provided said applicant for help notifies said licensed person within thirty days of the failure of the applicant to accept the position or of the applicant's discharge for cause. If the employee is discharged within one week without said employee's fault another position shall be furnished, or three-fifths of the fee returned to the applicant for employment if he so elects. Failure of said applicant for help to notify said licensed person that such has been obtained through means other than said agency shall entitle said licensed person to retain or collect three-fifths of the said fee.

2. No such licensed person shall send out any applicant for employment without having obtained, either orally or in writing, a bona fide order therefor, and if it shall appear that no employment of the kind applied for

existed at the place to which said applicant was directed, the said licensed person shall refund to such applicant within three days of demand any sums paid by said applicant for transportation in going to and returning from said place, and all fees paid by said applicant.

§ 187. **Receipt for fees paid.**— It shall be the duty of every such licensed person conducting an employment agency to give to every applicant for employment from whom a fee shall be received a receipt in which shall be stated, the name of said applicant, the date and amount of the fee, and the purpose for which it was paid, and to every applicant for help a receipt stating the name and address of said applicant, the date and amount of the fee, and the kind of help to be provided. Every such receipt, excepting those given by theatrical employment agencies, shall have printed on the back thereof a copy of sections one hundred and eighty-five, one hundred and eighty-six, one hundred and eighty-seven, in the English language and in any language which the person to whom the receipt is issued can understand.

§ 188. **Copies of law to be posted.**— Every licensed person shall post in a conspicuous place in each room of such agency sections one hundred and seventy-eight, one hundred and eighty, one hundred and eighty-one, one hundred and eighty-two, one hundred and eighty-three, one hundred and eighty-five, one hundred and eighty-six, one hundred and eighty-seven and one hundred and eighty-nine, of this article, which shall be printed in large type in languages in which persons commonly doing business with such office can understand. Such printed law shall also contain the name and address of the officer charged with the enforcement of this article in such city.

§ 189. **False or misleading advertisements and information.**— No licensed person conducting any employment agency shall publish or cause to be published any false or fraudulent or misleading information, representation, notice or advertisement; all advertisements of such employment agency by means of cards, circulars, or signs and in newspapers and other publications, and all letter heads, receipts and blanks shall be printed and contain the licensed name and address of such employment agent and the word agency, and no licensed person shall give any false information, or make any false promise or false representation concerning an engagement or employment to any applicant who shall register or apply for an engagement or employment or help.

§ 190. **Prohibitions as to employment agencies.**— No licensed person conducting an employment agency shall send or cause to be sent any female as a servant, employee, inmate, entertainer or performer, or any male as an employee or entertainer to any place of bad repute, house of ill-fame, or assignation house, or to any house or place of amusement kept for immoral purposes, or place resorted to for the purposes of prostitution, or gambling house, the character of which such licensed person could have ascertained upon reasonable inquiry. No licensed person shall send out any female applicant for employment, without making a reasonable effort to investigate the character of the employer. Nor shall any such licensed person send any female as an entertainer or performer to any place where such female will

be required or permitted to sell, offer for sale or solicit the sale of intoxicating liquors to those present or assembled as an audience or otherwise in such place or in any rooms or buildings adjacent thereto. No licensed person shall knowingly permit any persons of bad character, prostitutes, gamblers, intoxicated persons or procurers to frequent such agency. No licensed person shall accept any application for employment made by or on behalf of any child or shall place or assist in placing any such child in any employment whatever in violation of article twenty of the education law, relating to compulsory education, and in violation of the labor law. No licensed person, his agents, servants or employees shall induce or compel any person to enter such agency for any purpose, by the use of force or by taking forcible possession of said person's property. No person shall procure or offer to procure help or employment in rooms or on premises where intoxicating liquors are sold to be consumed on the premises whether or not dues or a fee or privilege are exacted, charged or received directly or indirectly, except in office buildings in which are located cafes and restaurants. For the violation of any of the foregoing provisions of this section the penalties shall be a fine of not less than twenty-five dollars, and not more than two hundred and fifty dollars, or imprisonment for a period of not more than one year, or both, at the discretion of the court.

§ 191. **Enforcement of provisions of this article.**— 1. In cities of the second and third class and in cities of the first class having a population of less than three hundred thousand, this article, so far as it relates to such cities, shall be enforced by the mayor or an officer appointed by him.

2. In cities of the first class having a population of three hundred thousand or more the enforcement of this article so far as it relates to such cities shall be intrusted to a commissioner to be known as a commissioner of licenses, who shall be appointed by the mayor, and whose salary, together with those of a deputy commissioner, and inspectors to be appointed by him, shall be fixed by the board of estimate and apportionment. Said commissioner of licenses and deputy commissioner shall have no other occupation or business. The commissioner of licenses shall appoint inspectors, who shall make at least bi-monthly visits to every such agency. Said inspectors shall have suitable badges which they shall exhibit on demand of any person with whom they may have official business. Such inspectors shall see that all the provisions of this article, so far as it relates to such cities, are complied with, and shall have no other occupation or business.

3. Complaints against any such licensed person shall be made orally or in writing to the mayor or commissioner of licenses, or be sent in an affidavit form without appearing in person, and reasonable notice thereof, not less than one day, shall be given in writing to said licensed person by serving upon the licensed person either personally or by leaving the same with the person in charge of his office, a concise statement of the facts constituting the complaint, and a hearing pursuant to the powers granted to the mayor or commissioner of licenses as provided in section one hundred and seventy-four shall be had before the mayor or commissioner of licenses within one week from the date of the filing of the complaint and no adjournment shall be taken for a period longer than one week. A daily calendar of all hearings shall be kept by the mayor or commissioner of licenses and shall be posted

in a conspicuous place in his public office for at least one day before the date of such hearings. The mayor or commissioner of licenses shall render his decision within eight days from the time the matter is finally submitted to him. Said mayor or commissioner of licenses shall keep a record of all such complaints and hearings. The said mayor or commissioner of licenses may refuse to issue and shall revoke any license for any good cause shown, within the meaning and purpose of this article and when it is shown to the satisfaction of the mayor or commissioner of licenses that any licensed person is guilty of any immoral, fraudulent or illegal conduct in connection with the conduct of said business, it shall be the duty of the mayor or the commissioner of licenses to revoke the license of such person; but notice of the charges shall be presented and reasonable opportunity shall be given said licensed person to defend himself. Whenever said mayor or commissioner of licenses shall refuse to issue or shall revoke the license of an employment agency, said determination may be reviewed by certiorari. Whenever for any cause such license is revoked, said mayor or commissioner of licenses shall not within three years from the date of such revocation issue another license to said licensed person or his representative or to any person with whom he is to be associated in the business of furnishing employment, help or engagements. In the absence of the commissioner of licenses, the deputy commissioner of licenses may conduct hearings and act upon applications for licenses, and revoke such licenses. [*As am'd by L.* 1912, *ch.* 261.]

§ 192. **Penalties for violations.**— The violation of any provision of this article except as otherwise provided in this article shall be punishable by a fine not to exceed twenty-five dollars, and any city magistrate, police justice, justice of the peace, or any inferior magistrate having original jurisdiction in criminal cases, shall have power to impose said fine, and in default of payment thereof to commit the person so offending for a period not exceeding thirty days. The said mayor or commissioner of licenses or any person, his agent or attorney, aggrieved because of the violations of this article shall institute criminal proceedings for its enforcement before any court of competent jurisdiction.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 950. **False statements in regard to employment.**—Any person, firm, association or corporation, or any employee or agent thereof, who makes to any person furnishing or seeking employment any statement which is false, knowing the same to be false, in regard to any employment, work or situation, its nature, location, duration, wages, or salary attached thereto, or the circumstances surrounding the said employment, work, or situation, or who shall offer or hold himself out as in a position to secure or furnish employment without having an order therefor or such employment to be filled or shall misrepresent any other material matter in connection with said employment, work, or situation, and by reason of such statement, offer, holding out or misrepresentation, any person shall seek the employment, work or situation, in respect to which such statement, offer, holding out or misrepresentation was made, shall be guilty of a misdemeanor. [*Added by L.* 1911, *ch.* 575.]

REGULATING THE SALE OF TRANSPORTATION TICKETS AND THE TAKING OF DEPOSITS.

GENERAL BUSINESS LAW, CHAPTER 20 OF THE CONSOLIDATED LAWS.

ARTICLE 10.

[*As Amended by L.* 1910, *ch.* 349, *in effect Sept.* 1, 1910.]

Ticket Agents.

Section 150. Licenses to sell transportation tickets or orders for transportation, to or from foreign countries.
151. Bonds.
152. Revocation of licenses.
153. Penalties for conducting business without license, et cetera.
154. Discharge and renewal of bonds.

§ 150. **Licenses to sell transportation tickets or orders for transportation to or from foreign countries.**—No person, firm, or corporation, other than railroad companies or the agents of such railroad companies or steamship companies duly appointed in writing, shall hereafter engage within this state in the sale of steamship tickets or orders for transportation to or from foreign countries or shall advertise or hold themselves out as authorized or entitled to sell such steamship tickets or orders for transportation without having first procured a license to carry on such business from the comptroller. Such license shall be granted on an application designating the place where the business for which a license is sought is to be carried on, and shall be accompanied by satisfactory proof by affidavit of good moral character. Such license shall be granted upon the payment to the comptroller of a fee of twenty-five dollars, and shall be renewed on payment of a like fee annually. Every license shall contain the name of the licensee, a designation of the city, street and number of the house in which the licensee is authorized to carry on business, and the number and date of such license. Such license shall not be transferred or assigned, nor authorize the licensee or his agents to transact business or to advertise or hold himself or themselves out as authorized and entitled to transact such business at any place other than that designated in the license, except with the written approval of the comptroller. The license shall run to the first day of September next ensuing the date thereof, and no longer, unless sooner revoked by the comptroller. [*As am'd by L.* 1911, *ch.* 578.]

§ 151. **Bonds.**—The comptroller shall require the applicant for a license to file with the application therefor a bond, in due form, to the people of the state of New York, in the penal sum of two thousand dollars, in cities of the first class, and of one thousand dollars in all other localities, with two or more sufficient sureties, who shall be freeholders within the state of New York, conditioned that the obligor will duly account for all moneys received for steamship tickets or orders for transportation to or from foreign countries, and that the obligor will not be guilty of any fraud or misrepresentation to any purchaser of such tickets or orders. The bond of a surety company approved by the comptroller, or cash, may be accepted in lieu of surety. The comptroller shall keep a book or books wherein shall be entered in alphabetical order all licenses granted and all bonds received by him as provided

in this article, the date of the issuance of said licenses and of the filing of such bonds, the name or names of the principals, with a statement of the place of business, and the names of the sureties upon the bonds so filed, which records shall be open to public inspection. A suit to recover on the bond required to be filed under the provisions of this article may be brought by or on the relation of any party aggrieved in a court of competent jurisdiction, and in the event that the obligor on said bond has been guilty of fraud or misrepresentation, may be enforced by the comptroller in the name of the people of the state of New York to recover the full penalty thereof. The fees received for the issuance of any license provided for in this article and the money reserved as the penalty on any bond, enforced by the comptroller, shall be paid into the state treasury, to be used to defray the miscellaneous expenses of the comptroller.

§ 152. **Revocation of licenses.**— In the event that any licensee shall be guilty of any fraud or misrepresentation, or shall fail to account for any moneys paid in connection with the sale of any ticket or order for transportation by steamship, the comptroller shall be empowered, on giving such notice to the licensee as he shall deem sufficient, and an opportunity to answer any charges made against such licensee, to revoke the license under which such business shall be carried on.

§ 153. **Penalties for conducting business without license, et cetera.**—Any person, firm or corporation carrying on the business specified in this article without having obtained from the comptroller a license therefor, or who shall carry on such business after the revocation of a license to carry on such business, shall be guilty of a misdemeanor.

§ 154. **Discharge and renewal of bonds.**— The provisions of section twenty-nine-a of this chapter as to discharge and renewal of bonds shall be applicable to any bond given pursuant to this article.

Cf. § 29-a under Regulation of Private Banking below.

Ch. 348 of L. 1910 (see below) repealed old article 10 but specified that such repeal should not affect any existing or accrued right or liability.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 1563. **Advertising as agent, without written authorization; false or misleading information.**— No person issuing, selling or offering to sell any passage ticket or any instrument giving or purporting to give any right, either absolutely or upon any condition or contingency, to a passage or conveyance upon any vessel, or a berth or stateroom in any vessel, shall hold himself out to be or advertise himself in any way as the agent of the owner or consignees of such vessel or line, unless he has received authority in writing therefor, specifying the name of the company, line or vessel for which he is authorized to act as agent and the city, town or village, together with the street, and the street number in which his office is kept for the sale of tickets, and unless such written authorization is conspicuously displayed in such office. Provided that this section shall not apply to the sale of passage tickets on board any such vessel or to the offices of the actual owners or consignees of such vessel. No person issuing, selling or offering to sell or holding himself out as being authorized to sell any such passage ticket or instru-

ment giving or purporting to give any such right to passage or conveyance shall give or cause to be given any false or misleading information or shall print, publish, distribute or circulate or cause to be printed, published, distributed or circulated any false or misleading advertisement, circular, circular letter, pamphlet, card, hand-bill or other printed paper or notice in regard to said passage, ticket or instrument or the passage or voyage to which it entitles or purports to entitle its owner, purchaser or holder or line over which, or the vessel for which such passage is sold or offered or as to his agency for such line or vessel. [*As am'd by L.* 1911, *ch.* 415.]

§ 1564. **Issuance of order or other instrument securing passage by vessel from foreign port to this state; what to contain.**— No person agreeing to furnish or secure for any other person, for a consideration, passage by vessel from any foreign port to any port in this state shall issue any advice, order, certificate or other instrument purporting to entitle one or more persons to a passage ticket or other evidence of a right of passage, unless every such advice, order, certificate or instrument shall be signed or countersigned by a duly appointed agent as provided in section fifteen hundred and sixty-three, of the vessel or line over which said advice, order, certificate or other instrument is held out to be good to secure such passage ticket or other evidence of a right of passage. Every such order, advice, certificate or other instrument and every receipt for money paid for or on account of any such advice, order, certificate or other instrument, shall contain a statement of the amount paid or to be paid for such passage; the name, address and age of the person for whom intended; the name of the company or line, if any, to which the vessel on which passage is to be made belongs; the place from which such passage is to commence; the place where such passage is to terminate; the name of the person purchasing such advice, order, certificate or other instrument, and such advice, order, certificate or other instrument must be signed by the person who issues it.

§ 1565. **Punishment for violation of two preceding sections.**— Any person violating any of the provisions of section fifteen hundred and sixty-three, or fifteen hundred and sixty-four, shall be guilty of a misdemeanor and for a second or further violation shall be guilty of a felony.

As to protection of immigrants against possible extortion or ill-treatment on the part of transportation companies, see Penal Law, § 1561 which fixes a maximum rate of 1¼ cents per mile.

§ 1572. **Soliciting the surrender of tickets a misdemeanor.**—Any hotel, boarding-house, lodging-house or restaurant owner, proprietor, manager, clerk or other employee or any runner, guide, porter or solicitor who solicits in any manner any immigrant or steerage passenger inward or outward bound, having a railroad or steamship ticket, order or other instrument entitling or purporting to entitle such passenger to transportation or conveyance on any railroad or steamship, to surrender such ticket, order or other instrument to such hotel, boarding-house, lodging-house or restaurant owner, proprietor, manager or other employee or to any runner, guide, porter or solicitor or any other person for the purpose of detaining any such immigrant or steerage passenger in any such hotel, boarding-house, lodging-house, or restaurant, shall be guilty of a misdemeanor. [*Added by L.* 1911, *ch.* 540.]

REGULATING PRIVATE BANKING.

GENERAL BUSINESS LAW, CHAPTER 20 OF THE CONSOLIDATED LAWS.

ARTICLE 3-a.

[*As added by L. 1910, ch. 348, in effect September 1, 1910. Held constitutional by U. S. Supreme Court in Engel v. O'Malley, 219 U. S. 128.*]

Private Banking.

Section 25.* Licenses, bonds and deposits.
26.* Books to be kept and records to be made; revocation of licenses.
27.* Penalties for conducting business without license, et cetera.
28.* Perjury.
29. Penalty for failure to make reports.
29-a. Discharge and renewal of bonds, substitution of securities, et cetera.
29-b. Burden of proof in actions against licensee.
29-c. Time within which money is to be transmitted.
29-d. Exceptions.
29-e. Construction of this article.
29-f. Additional penal provision.
29-g. Bureau of licenses.

§ 25. **Licenses, bonds and deposits.**— Except as provided in section twenty-nine-d, no individual or partnership shall hereafter engage directly or indirectly in the business of receiving deposits of money for safe-keeping or for the purpose of transmission to another or for any other purpose in cities of the first class without having first obtained from the comptroller a license to engage in such business. Before receiving such license the applicant therefor shall file with the comptroller a written statement in the form to be prescribed by the comptroller and verified by the individual or members of the firm making the application, showing the amount of the assets and liabilities of the applicant, designating the place where the applicant proposes to engage in business, that the applicant has been, or if the applicant shall constitute a partnership, that a majority of the members thereof having a controlling interest in the business of such partnership have been continuously for a period of five years immediately preceding the date of such application resident in the United States. Such applicant shall at the same time deposit with the comptroller five thousand dollars if the applicant is engaged only in the business of receiving money for transmission to another and otherwise ten thousand dollars in money or in securities which shall consist of bonds of the United States, of this state or of any municipality thereof, or other bonds approved by the comptroller, and if a deposit of securities shall be so made in lieu of money, the comptroller shall thereafter require the applicant to maintain such deposit at all times at a value which shall equal the sum that the applicant is required by this section to deposit. In addition thereto there shall be presented to the comptroller a bond to the people of the state of New York executed by the applicant and by a surety company approved by the comptroller, conditioned upon the faithful holding of all moneys that may be deposited with the applicant, in accordance with the terms of the deposit and the repayment of such moneys so deposited and upon the faithful transmission of any money which shall be delivered to such applicant for transmission to another, and in the event of the insolvency or bankruptcy of the applicant, upon the payment of the full amount of such bond to the assignee, receiver or trustee of the applicant, as the case may require, for the benefit

* Different sections 25 to 28 were added by L. 1910, ch. 640.

of the persons making such deposits and of such persons as shall deliver money to the applicant for transmission to another. The penalty of the bond shall be five thousand dollars if the applicant is engaged only in the business of receiving money for transmission to another; in all other cases the amount of such penalty shall, if the deposits of the applicants do not exceed twenty-five thousand dollars, be five thousand dollars, and if in excess thereof, the penalty of such bond shall be increased five thousand dollars for each additional twenty-five thousand dollars of deposits, or fraction thereof, not exceeding, however, a maximum penalty of fifty thousand dollars. In lieu of the aforesaid bond the applicant may deposit and the comptroller shall accept money and securities of the character above described. The money and securities so deposited shall be held on the conditions specified in the aforesaid bond. If securities be deposited in lieu of the aforesaid bond, and be accepted as hereinafter provided, the comptroller shall require the applicant to maintain such deposit at a value equal to the amount fixed as the penalty of the bond in lieu of which such money and securities shall be so deposited. Upon the receipt of such application the comptroller shall cause to be posted upon a bulletin to be maintained by him in his office in a place accessible to the general public, at noon of the succeeding Friday the name of the applicant and whether individual or partnership, and the proposed business address designated in the application. After notice of the application shall have been so posted for a period of two weeks he may in his discretion approve or disapprove the application. In the event of his approval he shall accept the money, securities and bond, if there be one, and hold them for the purposes herein set forth, and shall issue a license authorizing the applicant to carry on the aforesaid business at the place designated in the application and to be specified in the license certificate. For such license the licensee shall pay a fee of fifty dollars. Such license shall not be transferred or assigned. It shall not authorize the transaction of business at any place other than that described in the license certificate, except with the written approval of the comptroller. Immediately upon the receipt of the license certificate issued by the comptroller pursuant to this article the licensee named therein shall cause such license certificate to be posted and at all times conspicuously displayed in the place of business for which it is issued, so that all persons visiting such place may readily see the same. It shall be unlawful for any person or partnership holding such license certificate to post such certificate or to permit such certificate to be posted upon premises other than those designated therein or to which it has been transferred pursuant to the provisions of this article, or knowingly to deface or destroy any such license certificate. If it shall be established to the satisfaction of the comptroller in accordance with rules and regulations by him prescribed, that an unexpired license certificate issued in accordance with the provisions of this article has been lost or destroyed without fault on the part of the holder, the comptroller shall issue a duplicate license therefor. The money and securities deposited with the comptroller as herein provided and the money which in case of default shall be paid on the aforesaid bond by any applicant or the surety thereof, shall constitute a trust fund for the benefit of the depositors of the licensee and of such persons as shall deliver money to such licensee for transmission to another, and such beneficiaries shall be entitled to an absolute preference as to such money or securities, over all general creditors of the licensee. Such

money and securities shall in the event of the insolvency or bankruptcy of the licensee be delivered by the comptroller on the order or judgment of a court of competent jurisdiction to the assignee, receiver or trustee of the licensee designated in such order or judgment. The comptroller shall keep a book or books in which the licenses granted and the bonds filed shall be entered in alphabetical order, together with a statement of the date of the issuance of the license, the name or names of the principals, the place where the business licensed is to be transacted and the name of the surety company upon the bond filed, and the amount of all moneys and a description of all securities deposited, which record shall be open to public inspection. The comptroller shall cause to be printed annually on the first day of January and distributed upon application, a list of all licenses granted and remaining unrevoked. The comptroller shall from time to time pay over to each such licensee all moneys received by him as interest upon any moneys or securities deposited in accordance with the provisions of this article. [*As am'd by L.* 1911, *ch.* 393.]

§ 26. Books to be kept and records to be made; revocation of licenses.—Each licensee shall keep books of account showing full and complete records of all business transacted and a full statement of all assets and liabilities, and shall four times in each year as of such days as the comptroller shall designate by a notice to be posted on the bulletin in his office and by written notice delivered at the place of business of such licensee or deposited in the post-office in a postpaid wrapper directed to him at such place of business, file in the comptroller's office within ten days after the date of such notice, a written statement under oath in such form as shall be prescribed by the comptroller, showing the amount of the assets and liabilities of the licensee, which report shall be accessible to the public at all reasonable times. The license issued shall be revocable at all times by the comptroller for cause shown, and in the event of such revocation or of a surrender of such license, no refund shall be made in respect of any license fee paid under the provisions of this article. Every license certificate shall be surrendered to the comptroller within twenty-four hours after notice in writing to the holder that such license has been revoked. In case of the revocation of such license the money and securities and the bond, if there be one, received from the licensee, shall continue to be held by the comptroller, until otherwise directed by the order or judgment of a court of competent jurisdiction.

§ 27. Penalties for conducting business without license, et cetera.—Any person or partnership carrying on the business specified in section twenty-five of this article without having obtained from the comptroller a license therefor, or who shall carry on such business after the revocation of a license to carry on such business, or who, without such license shall, on any sign, letter-head, advertisement or publication of any kind use the word "banking" or "banker" or any equivalent term, in any language, in connection with any business whatsoever, or who shall fail to display the license certificate as provided in section twenty-five hereof, or who shall fail to keep books of account or to make the reports as herein provided, or any person or partnership not having a license who shall advertise or publish in any manner whatsoever, either orally or in writing, any statement intended to convey or actually conveying the idea or impression that such licensee is in any way under the supervision of this state or of any officer thereof, or that this state

or any officer thereof has passed in any way whatsoever upon the responsibility, solvency or qualifications of such licensee to engage in such business, or that this state or any officer thereof has examined any accounts of said licensee or has in any way certified that such licensee is in any way a fit person to carry on such business, shall be guilty of a misdemeanor. [*As am'd by L.* 1911, *ch.* 393.]

§ 28. Perjury.—Any person who in any application for a license presented to the comptroller, or in any report made under this article, or on any examination or inquiry pursuant to section twenty-nine-e hereof, shall swear falsely as to the nature or value of his assets, or the amount of his liabilities or in any other particular, and any person who in any affidavit made under section twenty-nine-d of this article shall swear falsely as to any fact therein stated is guilty of perjury. [*As am'd by L.* 1911, *ch.* 393.]

§ 29. Penalty for failure to make reports.—Any person or partnership who shall fail to make any report required by this article within the time specified for the same, shall forfeit to the people of the state of New York the sum of one hundred dollars for every day that such report shall be delayed or withheld. The money forfeited under this section shall be recovered in an action brought in the name of the people of the state, and with all moneys received as fees for the issuance of the licenses provided for herein shall be paid into the state treasury to the credit of the general fund.

§ 29-a. Discharge and renewal of bonds, substitution of securities, et cetera. The surety in a bond given pursuant to this article may give notice to the comptroller in writing requesting to be released from responsibility on account of any future breach of the conditions of the bond, and that the principal in the bond be required to give a new surety, and thereupon the comptroller shall give notice in writing directed to the principal upon said bond at the place designated by him for the transaction of business requiring him within ten days from a day therein specified to file a new bond in the form required therein with a new surety, approved by the comptroller, or money or securities in lieu thereof, and upon the filing of such new bond or such money or securities in lieu thereof within the time specified, but not before, the surety upon the old bond shall be discharged from liability upon the bond given by it for any subsequent act or default of the principal. Whenever money or securities are deposited with the comptroller pursuant to this article, he may in his discretion permit the substitution of securities for money, or of money for securities, in whole or in part, or of money or securities for any bond, or of a bond for money or securities deposited (other than the money or securities which the licensee is required by section twenty-five hereof to keep at all times on deposit with the comptroller), or the withdrawal of securities deposited and the substitution of others of equal value in their place, and if the total value of securities become substantially impaired he shall require the deposit of money or additional securities sufficient to cover the impairment in value. In the event of the failure of such principal to file a new bond or such money or securities in lieu thereof, or to deposit money or additional securities to cover any impairment of value of securities theretofore deposited, within the time specified, the comptroller shall forthwith revoke the license of such principal. In the event that the licensee shall at any

time discontinue the business license or with respect to which a bond shall have been filed or money or securities shall have been deposited pursuant to this article, the comptroller on the order or judgment of a court of competent jurisdiction may cancel the bond filed by the licensee and return to the licensee all moneys and securities deposited. [*As am'd by L.* 1911, *ch.* 393.]

§ 29-b. **Burden of proof in actions against licensee.**— In an action against a licensee to recover money deposited with such licensee for transmission, the burden of proving the transmission to and receipt of the money by the person to whom such money is directed to be paid shall be upon the licensee to whom such money was delivered for transmission. Proof by a properly authenticated affidavit of such licensee or his duly authorized agent, showing the transmission of such money to the person to whom the same was to be transmitted, or to the correspondent of the licensee to whom such money may have been transmitted for payment to the person to whom such money was to be paid, together with a properly authenticated receipt signed by the consignee of such money, or in lieu of such receipt a properly authenticated affidavit of the agent of the licensee showing the fact of payment, shall be deemed sufficient evidence to shift the burden of proof to the plaintiff.

§ 29-c. **Time within which money is to be transmitted.**— All moneys received for transmission to a foreign country by any licensee shall be forwarded to the person to whom the same is directed to be transmitted within five days after the receipt thereof, and every person who shall fail to so forward the same, within the time specified, shall be guilty of a misdemeanor.

§ 29-d. **Exceptions.**— The foregoing provisions shall not apply (1) to any corporation or "individual banker" authorized to do business under the provisions of the banking law, nor to any association organized under the national banking act; nor (2) to any hotel-keeper who shall receive money for safe-keeping from a guest; nor (3) to any express company having contracts with railroad companies for the operation of an express service upon the lines of such railroad companies nor to any telegraph company receiving money for transmission; nor (4) to any individual or partnership receiving money on deposit for safe-keeping or for transmission to others, or for any other purpose, where the average amount of each sum received on deposit, or for transmission, by such individual or partnership in the ordinary course of business, during the fiscal year preceding the date of the affidavit hereinafter specified, shall not be less than five hundred dollars, proof of which fact by affidavit to the satisfaction of the comptroller shall be made by the individual or a member of the partnership seeking exemption hereunder, whenever thereunto requested by the comptroller; nor (5) to any individual or partnership who would otherwise be required to comply with section twenty-five of this article who shall file with the comptroller a bond in the sum of one hundred thousand dollars, approved by the comptroller as to form and sufficiency, for the purpose and conditioned as in said section prescribed, where the business is conducted in a city having a population of one million or over and if conducted elsewhere in the state such bond shall be in the sum of fifty thousand dollars; or in lieu thereof money or securities approved by the comptroller of the same amount. The provisions of section twenty-nine-a shall be applicable to such bond, or deposit of money or securities. [*As am'd by L.* 1911, *ch.* 393.]

§ 29-e. **Examination by comptroller; penalty for interference therewith; proceedings by attorney-general.**— 1. Whenever the comptroller shall deem it expedient, he may, either personally or by one of his deputies, or by examiners appointed by him, examine every applicant for a license or any licensee hereunder with respect to the nature and value of his assets, the manner in which the same are invested, the amount and character of his liabilities, and the conditions under which his business is conducted. For the purpose of such examination the comptroller, his deputies and examiners, shall have free access to the vaults, safes, books, papers and securities of such applicant or licensee, and shall be permitted to examine the same to make inventories, statements of accounts and transcripts from such books and papers. The person making such examination may summon said applicant or licensee, and any other witnesses who may be deemed necessary and examine them under oath with respect to the matters aforesaid, and for that purpose may administer oaths. It shall be the duty of the person conducting such examination to file the testimony taken, together with such inventories, statements of account and transcripts, in the office of the comptroller.

2. Any person who shall willfully fail or refuse to appear and testify when so required, or who shall interfere with or obstruct such examination, or prevent access to the aforesaid vaults, safes, books, papers and securities, or fail to comply with any requirement of the person making such examination, is guilty of a misdemeanor.

3. Whenever it shall appear that any licensee hereunder is insolvent or that the condition of the business conducted by him is such as to render its continuance hazardous, or that such licensee has failed to comply with any of the provisions hereof, the comptroller shall report the facts to the attorney-general, who shall thereupon institute an action in the supreme court to wind up the business so licensed and to restrain the licensee from conducting the same, and in such action the court may appoint a temporary receiver to enforce the bond given under section twenty-five hereof, to take possession of the property and effects of the licensee, to convert them into money, and to hold the same subject to the direction of the court. [*As am'd by L.* 1911, *ch.* 393.]

§ 29-f. **Additional penal provision.**— Any licensee who shall violate any of the provisions of this article the violation of which has not hereinbefore been expressly made a misdemeanor, or a felony, shall be guilty of a misdemeanor.

§ 29-g. **Bureau of licenses.**— The comptroller shall establish a license bureau for the purpose of complying with the provisions of this article.

Section 153 of the Labor Law, *ante,* makes it the duty of the Commissioner of Labor to co-operate in the enforcement of this law.

MAKING FRAUD BY A NOTARY A MISDEMEANOR.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 1820-a. Subd. 1. Any person who holds himself out to the public as being entitled to act as a notary public or commissioner of deeds, or who assumes, uses or advertises the title of notary public or commissioner of deeds, or equivalent terms in any language, in such a manner as to convey the im-

pression that he is a notary public or commissioner of deeds without having first been appointed as notary public or commissioner of deeds, or

Subd. 2. A notary public or commissioner of deeds, who in the exercise of the powers, or in the performance of the duties of such office shall practice any fraud or deceit, the punishment for which is not otherwise provided for by this act, shall be guilty of a misdemeanor. [*As added by L.* 1910, *ch.* 471, *in effect September* 1, 1910.]

See provision for investigation of complaints concerning notaries by Commissioner of Labor in § 153 of the Labor Law, *ante.*

LICENSING OF SAILORS' BOARDING HOUSES. *

LAWS OF 1882, CHAPTER 410 (THE NEW YORK CITY CONSOLIDATION ACT).

§ 2069. It shall not be lawful for any person, except a pilot or public officer, to board, or attempt to board, a vessel arriving in the port or harbor of New York before such vessel shall have been made fast to the wharf, without first obtaining leave from the master or person having charge of such vessel, or leave in writing from her owners or agents.

§ 2070. It shall not be lawful for any person to board or attempt to board any vessel arriving in or lying or being in the harbor or port of New York, with intent to supply liquors by sale, gift or otherwise, directly or indirectly, to any member of the crew employed on board of such vessel. [*As am'd by L.* 1909, *ch.* 353.]

§ 2071. It shall not be lawful for any person having boarded any vessel in the port of New York, to neglect or refuse to leave said vessel after having been ordered so to do by the master or person having charge of such vessel. [*As am'd by L.* 1909, *ch.* 353.]

§ 2072. It shall not be lawful for any person to keep, conduct, or carry on, either as owner, proprietor, agent, or otherwise, any sailors' boarding-house or sailors' hotel in the city of New York, without having the license in this chapter provided.

§ 2073. It shall not be lawful for any person not having the license in this chapter provided, or not being the regular agent, runner, or employee of a person having such a license, to invite, ask, or solicit, in the city or harbor of New York, the boarding or lodging of any of the crew employed on any vessel.

§ 2074. There is created a board denominated a board of commissioners for licensing sailors' hotels or boarding-houses in the city of New York consisting of one person selected by each of the following corporate bodies or associations, respectively, to-wit: The Chamber of Commerce of the State of New York; the American Seamen's Friend Society in New York; the New York Board of Underwriters; the Marine Society of New York; the Society for Promoting the Gospel Among Seamen in the Port of New York; the New York Maritime Association of the Port of New York; the Seamen's Church Institute of New York; the Seamen's Christian Association of the City of New York, and St. Peter's Union for Catholic Seamen. [*As am'd by L.* 1909, *ch.* 353.]

§ 2075. Such board shall take the application of any person applying for a license to keep a sailors' boarding-house, or sailors' hotel, in the city of New

* *Cf.* § 156 of the Labor Law, *ante,* relative to licensing of immigrant lodging houses.

York, and upon satisfactory evidence to them of the respectability and competency of such applicant, and of the suitableness of his accommodations, shall issue to him a license, which shall run to the first Tuesday of May next ensuing the date thereof and no longer, unless sooner revoked by said board, to keep a sailors' boarding-house in the city and to invite and solicit boarders for the same within the limitations of the state and federal laws relating thereto. [*As am'd by L.* 1909, *ch.* 353.]

§ 2076. Such board may, upon satisfactory evidence of the disorderly character of any sailors' hotel or boarding-house, licensed as hereinbefore provided, or of the keeper or proprietor of any such house, or of any force, fraud, deceit, or misrepresentation in inviting or soliciting boarders or lodgers for such house, on the part of such keeper or proprietor, or of any of his agents, runners, or employees, or of any attempt to persuade or entice or force any of the crew to desert from or to serve involuntarily on any vessel in the harbor of New York, by such keeper or proprietor, or any of his agents, runners, or employees, revoke the license for keeping such house after notice to the licensee and a hearing thereon and each member of said board is hereby authorized to administer oaths and take and receive evidence in all matters provided for herein. [*As am'd by L.* 1909, *ch.* 353.]

§ 2077. Every person receiving the license hereinbefore provided for shall pay to the board of commissioners aforesaid the sum of twenty-five dollars for each full year and a proportionate amount for a shorter period which amounts after deducting the actual expenses of said board incurred in the transaction of the business shall be by them applied for the relief of shipwrecked and destitute seamen. Said board shall file on or before the second Monday of January of each year, in the office of the clerk of the city and county of New York, a statement showing the number of licenses issued, the names of persons to whom issued, with name and number of the street or house licensed during the year preceding, the amount of money received therefor, the amount and items of their disbursements, and the amount distributed by them as hereinbefore directed. [*As am'd by L.* 1909, *ch.* 353.]

§ 2078. The said board shall appoint a president and secretary and shall keep an office in the city of New York, and make such by-laws and regulations as may be needful for the orderly conduct of its business, not inconsistent with the constitution and laws of this state.

§ 2079. The said board shall furnish to each sailors' hotel or boarding-house keeper, licensed by them as aforesaid, one or more badges or shields, on which shall be printed or engraved the name of such hotel or boarding-house keeper, and the number and street of his hotel or boarding-house; and which said badges or shields shall be surrendered to said board upon the revocation by them or expiration of any license granted by them as herein provided.

§ 2080. Every sailors' hotel or boarding-house keeper, and every agent, runner, or employee of such hotel or boarding-house keepers, when boarding any vessel, in the harbor of New York, or when inviting or soliciting the boarding or lodging of any seaman, sailor, or person employed on any vessel, shall wear conspicuously displayed the shield or badge referred to in the foregoing section.

§ 2081. It shall not be lawful for any person, except those named in the preceding section, to have, wear, exhibit, or display any such shield or badge to

any of the crew employed on any vessel with the intent to invite, ask, or solicit the boarding or lodging of any of the crew employed on any vessel being in the harbor of New York.

§ 2082. Whoever shall offend against any or either of the provisions contained in sections two thousand and sixty-nine to two thousand and seventy-three, inclusive, or two thousand and eighty or two thousand and eighty-one, of this act, and any commissioner appointed under this chapter who shall directly or indirectly receive any gratuity or reward, other than as herein provided for, or on account of any license under this chapter shall be deemed guilty of a misdemeanor. [*As am'd by L.* 1909, *ch.* 353.]

§ 2083. The word "vessel," as used in this chapter shall include vessels by whatever power propelled. The word "sailor" and the word "seamen" as used in this chapter shall include any person not an officer employed on any vessel. The word "boarding-house" as used in this chapter shall include a house where both board and lodgings are given or a house where lodgings alone are given. The word "hotel" as used in this chapter shall include a house where lodgings alone are given or a house where both board and lodgings are given. [*As am'd by L.* 1909, *ch.* 353.]

§ 2084. The president of the trustees of the Seamen's fund and retreat in the city of New York shall demand and be entitled to receive, and in case of neglect or refusal to pay, shall, in the name of the people of the state of New York, sue for and recover the following sums from either the owner or owners, or from the master, or from both the owner or owners and master, of every vessel from a foreign port; for the master, one dollar and fifty cents; for each mate, sailor, or mariner, one dollar. Second, from the master of each coasting vessel, from each person on board composing the crew of such vessel, twenty-five cents; but no coasting vessel from the state of New Jersey, Connecticut, or Rhode Island shall pay for more than one voyage in each month, computing from the first voyage in each year. And the said president may sue for the penalties imposed by law on masters of coasting vessels for nonpayment of hospital money.

APPENDIX VIII.

OPINIONS OF THE ATTORNEY-GENERAL CONSTRUING PROVISIONS OF THE LABOR LAW.

RAILWAY TEN-HOUR LAW DOES NOT APPLY WHEN HOURS OF LABOR ARE NOT CONSECUTIVE.

October 4, 1911.

HON. JOHN WILLIAMS, *Commissioner of Labor, Albany, N. Y.:*

DEAR SIR.—Your communication of the 2d inst. is at hand. You state that certain railway corporations require their employees to work more than ten hours in a day of twenty-four hours and that the required hours of labor are divided as follows: six o'clock A. M. to 12 o'clock noon; after an intermission of two or three hours, continuous work for five or six hours. You inquire whether this requirement by these railway corporations of their employees constitutes a violation of section 6 of the Labor Law or section 1271, subd. 2 of the Penal Law.

Section 6 of the Labor Law is as follows:

Section 6. Hours of labor on street surface and elevated railroads.— Ten consecutive hours of labor, including one-half hour for dinner, shall constitute a day's labor in the operation of all street surface and elevated railroads, of whatever motive power, owned or operated by corporations in this state, whose main line of travel or whose routes lie principally within the corporate limits of cities of the first and second-class. No employees of any such corporation shall be permitted or allowed to work more than ten consecutive hours, including one-half hour for dinner, in any one day of twenty-four hours. In cases of accident or unavoidable delay, extra labor may be performed for extra compensation.

Section 1271, subd. 2 of the Penal Law is as follows:

Section 1271. Hours of labor to be required.— Any person or corporation; who shall require more than ten hours labor, including one-half hour for dinner, to be performed within twelve consecutive hours, by the employees of a street surface and elevated railway owned or operated by corporations whose main line of travel or routes lie principally within the corporate limits of cities of more than one hundred thousand inhabitants; * * * is guilty of a misdemeanor, and on conviction therefor shall be punished by a fine of not less than five hundred nor more than one thousand dollars for each offense.

I think that the statutes quoted are intended to prohibit the requirement of more than the prescribed number of hours of labor where the hours are consecutive and that the facts stated by you do not come within the prohibition of the statutes.

Yours very truly,

THOMAS CARMODY,
Attorney-General.

By (Signed) AUGUST MERRILL,
Deputy Attorney-General.

CONVICT LABOR MAY BE LEGALLY EMPLOYED IN THE PROPAGATION OF TREES FOR THE STATE.

Inquiry.

The Conservation Commission and the Superintendent of Prisons desire to employ the convicts in the different prisons of the State for the propagation of trees, which are to be used principally in the reforestation of State lands, and desire to know whether they would have a right, under the Constitution, to dispose of a portion of these trees for the reforestation of private lands.

Opinion.

Section 29 of Article III of the State Constitution directs that the Legislature shall, by law, provide for the occupation and employment of prisoners sentenced to the several State prisons, penitentiaries, jails and reformatories in the State, and further provides as follows:

> No person in any such prison, penitentiary, jail or reformatory, shall be required or allowed to work, while under sentence thereto, at any trade, industry or occupation, wherein or whereby his work, or the product or profit of his work, shall be farmed out, contracted, given or sold to any person, firm, association or corporation.

The section further provides that nothing therein contained shall prevent the Legislature from providing that convicts may work for, and that the products of this labor may be disposed of to, the State or any political division thereof, or for or to any public institution owned or managed and controlled by the State, or any political division thereof.

There can be no objection, of course, to raising trees, to be planted on State lands or disposed of to the State or to any institution or political division managed or controlled by the State. The only question is as to whether a portion of the trees thus raised may be disposed of to private parties for the reforestation of private lands.

The above provision was inserted in the Constitution by the Constitutional Convention of 1894, and has been construed by the courts as aimed at the product system of labor in prisons whereby, prior to the adoption of this amendment, the profits of the labor of convicts were secured by contractors or private parties.

In *People* v. *Hawkins*, 157 N. Y. 1, the court construes this amendment. At page 13 it is stated:

> The words "product and profit of his work" do not refer to articles of property, but to the net value of labor. If the framers of the Constitution intended to prohibit dealing in any article of merchandise, surely they would not have described the article by such vague terms as the "products of work." A manufactured article is not known in common parlance, in law or political economy as the "product of labor." * * * If any of the penal institutions of the state happen to have a farm attached to it, worked by the convicts, as some of them probably have, it would be a very narrow construction of this section to hold that the products or profits of the farm, whether consisting of cattle or other farm produce, could not be sold to the general public because it would be the product and profits of prison labor.

Under this construction, trees are not the product of labor even though raised as contemplated by the Conservation Commission and the Superintendent of Prisons. This I deem to be the law of the State, and conclude

that convict labor may be employed legally for the raising of trees for reforestation and that trees thus raised may be sold for private use in reforestation.

Dated October 11, 1911.

THOMAS CARMODY,
Attorney-General.

To the CONSERVATION COMMISSION, and to HON. JOSEPH F. SCOTT, *Superintendent of Prisons, Albany.*

COMMISSIONER OF LABOR NOT EMPOWERED TO PRESCRIBE SAFETY RULES FOR OPEN-CUT WORK ON SUBWAYS.

November 23, 1911.

HON JOHN WILLIAMS, *Commissioner of Labor, Capitol, Albany:*

DEAR SIR.— Your communication of November 21st, in reference to the construction of subways in New York City, received.

After an examination of the Labor Law in reference to mines, quarries and tunnels and a special examination of section 120 of the Labor Law, it would seem to me that such portion of the work as consists of constructing tunnels, there can be absolutely no question but that it is within the provisions of the law. I am not so sure in reference to that portion of the work which consists of open tunnels. I think there would be some very serious questions as to that, although, the general scheme of the work is to construct an underground tunnel in New York City. I think that should a specific case arise as to any of the open work, we had better pass upon it in accordance with the particular facts in that case.

Very truly yours,

THOMAS CARMODY,
Attorney-General.

By (Signed) JAMES A. PARSONS,
Deputy.

INSPECTORS AND INVESTIGATORS OF THE DEPARTMENT OF LABOR REQUIRED TO SECURE PERMITS FOR CARRYING FIREARMS.

December 27, 1911.

HON JOHN WILLIAMS, *Commissioner of Labor, Capitol, Albany:*

DEAR SIR.—Yours of the 26th instant received. Under a literal construction of the Sullivan Law, your inspectors and investigators would be compelled to take out a license or permit to carry firearms. From your statement of their duties in your letter, they do not seem to be such persons as are exempted by the terms of the act from the necessity of taking out a permit.

Very truly yours,

(Signed) THOMAS CARMODY,
Attorney-General.

LICENSE FEES COLLECTED FOR IMMIGRANT LODGING PLACES SHOULD ONLY BE PAID OUT AFTER AN APPROPRIATION DEFINITE IN AMOUNT.

INQUIRY.

Is the Comptroller authorized, in conjunction with the Commissioner of Labor, to pay out moneys collected from fees for licenses issued to immigrant lodging places?

OPINION.

By chapter 845 of the Laws of 1911, section 156-a was added to the Labor Law, providing a system for licensing immigrant lodging places. Subdivision 6 of this act provides as follows:

> The license fees collected hereunder shall be paid to the comptroller and shall constitute a fund to be used in the joint discretion of the comptroller and commissioner of labor for the expenses necessary for carrying out the provisions of this section.

The statute seems to contemplate the creation of a specific fund resulting from the licenses provided for by the statute to be expended for purposes of the act.

Section 37 of the State Finance Law, as amended by chapter 440 of the Laws of 1910, should be noted in this connection. It provides:

> Every state officer, employee, board, department or commission receiving money for or on behalf of the state from fees, penalties, costs, fines, sales of property or otherwise, shall on the fifth day of each month pay to the state treasurer all such money received during the preceding month and on the same day file a detailed, verified statement of such receipts with the comptroller, who shall keep an account thereof in his office. * * * This section shall be deemed to supersede any other provision of this chapter or of any other general or special law inconsistent therewith.

Section 21 of article III of the State Constitution provides as follows:

> No money shall ever be paid out of the treasury of this state, or any of its funds, or any of the funds under its management, except in pursuance of an appropriation by law; nor unless such payment be made within two years next after the passage of such appropriation act; and every such law making a new appropriation or continuing or reviving an appropriation, shall distinctly specify the sum appropriated and the object to which it is to be applied; and it shall not be sufficient for such law to refer to any other law to fix such sum.

The constitutional requirement is therefore to the effect not only that an appropriation must be made by law but that the statute shall distinctly specify the sum appropriated.

If subdivision 6, above quoted, may in any sense constitute an appropriation, it is not in conformity with the constitutional requirement in that it fails to fix the amount appropriated.

There can be no question but that this is a fund of the State, and under its management, and it would further seem that the section of the Finance Law, above quoted requires its payment into the treasury of the State and would prohibit its being withheld as a separate fund.

In any event, I believe that further legislative action is necessary for the disposition of this fund in conformity with the constitutional provision above quoted requiring the appropriation to be definite as to the amount authorized to be expended.

Dated January 3, 1912.

Respectfully submitted,

THOMAS CARMODY,
Attorney-General.

To Hon. WILLIAM SOHMER, *State Comptroller, Albany.*

EIGHT-HOUR LAW APPLIES TO PRISONERS IN ALL STATE INSTITUTIONS.

INQUIRY.

May prisoners confined in the Onondaga county penitentiary be employed more than eight hours per day in road construction?

OPINION.

The number of hours of labor of prisoners in State prisons, reformatories and penitentiaries is limited to eight hours per day by section 171 of the Prison Law which provides as follows:

> The superintendent of state prisons, the superintendents, managers and officials of all reformatories and penitentiaries in the state, shall, so far as practicable, cause all the prisoners in said institutions, who are physically capable thereof, to be employed at hard labor, for not to exceed eight hours of each day, other than Sundays and public holidays. * * *

and states for what purpose such labor shall be employed.

Section 178 of the Prison Law provides:

> The state board of managers of reformatories, and the managing authorities of all the penitentiaries or other penal institutions in this state, are hereby authorized and directed to conduct the labor of prisoners therein, respectively, in like manner and under like restrictions, as labor is authorized by sections one hundred and seventy and one hundred and seventy-one of this article, to be conducted in state prisons.

The employment of convicts in State prisons on highway work is authorized by section 179 of the Prison Law but no increase in the hours of labor is authorized when they are so employed.

My attention is called to the provisions of section 321 of the Prison Law as being in apparent conflict with the provisions above quoted. This section makes it the duty of the "agent and warden of each of the penitentiaries in this State to require of every able-bodied convict confined therein as many hours of faithful labor in each and every day during his term, as shall be prescribed by the rules of such penitentiary." Neither this section nor the general power given the authorities of penitentiaries to adopt rules for the government and discipline of the institutions under their charge, should be considered as permitting rules to be adopted in conflict with the general provisions of the law relating to the same subject. All reformatories and penitentiaries as well as State prisons, are included in the provisions of section 171 of the Prison Law, and that section prohibits the employment of prisoners in penal institutions for more than eight hours per day.

Dated February 16, 1912.

THOMAS CARMODY,
Attorney-General.

To Hon. GEORGE F. MCLAUGHLIN,
Secretary, State Commission of Prisons, Albany. N. Y.

EIGHT-HOUR LAW DOES NOT APPLY TO REGULAR EMPLOYEES OF STATE INSTITUTIONS ENGAGED IN PRINTING WORK.

March 8, 1912.

HON. JOHN WILLIAMS, *State Commissioner of Labor, Albany, N. Y.:*

DEAR SIR.— I acknowledge the receipt of your letter of March 2nd. The inquiry, which you quote in your opinion, is not quite clear. I take it that it refers to printers who are employed regularly *in* the Utica State Asylum,

a State institution. In this connection I refer you to an opinion of Attorney-General O'Malley, page 806 of the report of 1910.

Supplementing this, I would say, that if the employees referred to, are regular employees of the State Institution, they are within the exception of section 3 of the Labor Law and the statute would not apply to them.

Very truly yours,

THOMAS CARMODY,
Attorney-General.

By (Signed) J. A. KELLOGG,
First Deputy.

EIGHT-HOUR LAW DOES NOT APPLY TO JANITORS IN PUBLIC SCHOOLS.

FACTS.

The janitors of the public schools of the city of Syracuse at certain times of the year work in excess of eight hours per day in the discharge of their duties. They are paid an annual salary as compensation for their services.

INQUIRY.

Is such employment in violation of the Labor Law providing that eight hours shall constitute a legal day's work?

Are janitors of common schools generally within the provisions of that law?

OPINION.

The question as to whether the provision of the Labor Law, limiting the hours of a legal day's work, is applicable to janitors in public schools, was decided by the Appellate Division of the Supreme Court in the Second Department in May, 1906, in the case of *Farrell* v. *The Board of Education of the City of New York,* (113 A. D. 405). It was there held that the position of a janitor in a public school in the city of New York was not within the law in question. The court based its decision in part upon the fact that the Labor Law was intended to refer only to those employees who were paid daily wages for labor upon public works, and in part upon the fact that the Greater New York charter, authorizing the appointment of janitors by the board of education and the regulation of their salaries by that body, superseded the provision of the Labor Law in question as being a later enactment.

The first principle asserted by the court would apply to all salaried officers. The second principle asserted would apply with equal force to the city of Syracuse for the reason that by chapter 543 of the Laws of 1907, providing for a department of public instruction in the city of Syracuse, it was provided, in the second section of the act, that the board of education may appoint janitors or custodians of schools and, subject to the approval of the board of estimate and apportionment, fix and determine their salaries.

This provision is similar to the provision in the charter of Greater New York and the statute in which it is contained is in a similar position to that charter as to having been enacted since the enactment of the Labor Law. This decision of the court stands as the law of the State upon the subject.

The Education Law, enacted in 1910 (chapter 140 of the Laws of that year) gives to trustees of common schools generally throughout the State a right to contract for janitor services. (Section 275, subd. 16.) Section 317 of the same law provides that boards of education shall possess all the powers and privileges which trustees of common schools possess.

Therefore, for the same reasons that are applicable to the city of Syracuse, I believe that trustees and boards of education of schools operated under the General Education Law of the State are also within the decision quoted and are not included within the provisions of the section of the Labor Law in question.

To determine as to the applicability of the section to janitors of schools in other jurisdictions of the State, where special laws govern the educational system, it would be necessary in each specific instance to have recourse to such laws. I presume, however, that the general principle laid down in the *Farrell* case would be found to be almost universally applicable upon examination of such special laws.

Dated March 8, 1912.

THOMAS CARMODY,
Attorney-General.

To Hon. JOHN WILLIAMS,
Commissioner, Department of Labor, Albany. N. Y.

EIGHT-HOUR LAW DOES NOT APPLY TO TEMPORARY SERVICE AS TELEPHONE OPERATORS OF RAILROAD ENGINEERS AND CONDUCTORS.

FACTS.

A railroad corporation, operating a railroad between Rochester and Buffalo, has installed telephones with booths at the ends of important sidings and has issued instructions that engineers and conductors, when their trains get stuck on such sidings, shall take orders over said telephones to govern the movement of their trains.

INQUIRY.

Do these engineers and conductors by virtue of receiving these train orders fall within the definition of operators and in such event does the eight-hour clause of section 8 of the Labor Law apply to their cases?

OPINION.

Section 8 of the Labor Law provides as follows:

It shall be unlawful for any corporation or receiver, operating a line of railroad, either surface, subway or elevated, in whole or in part in the State of New York, or any officer, agent or representative of such corporation or receiver to require or permit any telegraph or telephone operator who spaces trains by the use of the telegraph or telephone under what is known and termed the block system (defined as follows): Reporting trains to another office or offices or to a train dispatcher operating one or more trains under signals, and telegraph or telephone levermen who manipulate interlocking machines in railroad yards or on main tracks out on the lines or train dispatchers in its service whose duty substantially, as hereinbefore set forth, pertain to the movement of cars, engines or trains on its railroad by the use of the telegraph or telephone in dispatching or reporting trains or receiving or transmitting train orders as interpreted in this section, to be on duty for more than eight hours in a day of twenty-four hours, and it is hereby declared that eight hours shall constitute a day of employment for all laborers or employees engaged in the kind of labor aforesaid; except in cases of extraordinary emergency caused by accident, fire, flood or danger to life or property.

The mere fact that occasionally a conductor or an engineer is called upon in an emergency to take an order to govern the movement of his train does

not take away from him his character as an engineer or a conductor. They are employed principally to run the trains and not to operate a telephone to receive orders for the movement of their train and their duties are not "substantially" as set forth in the above quoted section of the law.

In the usual course of events the time spent in receiving such orders would be very short compared with the time spent in their usual duties and it is merely an incident caused by an emergency to their principal duties.

The law, above stated, was intended to apply to men continuously engaged as operators in connection with train orders and not to one occasionally so engaged in connection with their other principal and substantial duties. I am, therefore, of the opinion that conductors and engineers, who occasionally receive a train order over a telephone, as stated in the statement of facts herein, are not within the definition of "operators" as defined in section 8 of the Labor Law and that the "eight-hour" clause of that section does not apply to their case.

Dated March 26, 1912.

THOMAS CARMODY,
Attorney-General.

To Hon. JOHN WILLIAMS,
Commissioner of Labor, Albany, N. Y.

EIGHT-HOUR LAW DOES NOT APPLY TO EMPLOYEES IN NURSERIES MAINTAINED BY THE STATE CONSERVATION COMMISSION.

April 18, 1912.

HON. JOHN WILLIAMS, *Commissioner of Labor, Albany:*

DEAR SIR.—I have received your favor of the 16th inst. relative to the applicability of the Eight-hour Law, so-called, to employees in the nurseries maintained by the State Conservation Commission.

Among the various papers which you submit is a letter from George P. Decker, Chief Attorney, to Hon. James W. Fleming, Conservation Commissioner, bearing date August 8, 1911. Aside from the suggestions contained in that letter that the willingness of the employees to work more than eight hours and their not being required against their will to so work has a bearing upon the legal aspect of the subject, I concur in the reasoning and also in the result of Mr. Decker's letter. Under a fair interpretation of section 3 of the Labor Law, it would seem that the work described is farm work and therefore not within the limitation of the law.

Very truly yours,

(Signed) THOMAS CARMODY,
Attorney-General.

EIGHT-HOUR AND PREVAILING RATE OF WAGES LAW DOES NOT APPLY TO WORK ON BRIDGES OUTSIDE THE LIMITS OF CITIES AND VILLAGES.

INQUIRY.

Section 3. of the Labor Law, which regulates hours of labor and rates of wages on public work, contains a clause excepting from its restrictions "the construction, maintenance and repair of highways outside the limits of cities and villages."

In some places it becomes necessary to construct bridges to connect sections of highways lying on both sides of creeks or rivers. Is the work of constructing such bridges entitled to the benefit of the exception quoted above?

OPINION.

In the ordinary sense, and particularly as regards the right of passage, the word, "highway" includes bridges continuing the road, and it is apparent that the Legislature, in aiming, by this exception to the operation of the law, to aid the prompt construction and repair of the means of communication, intended to use the word "highway" in this sense. I am therefore of the opinion that the work of constructing, maintaining and repairing bridges upon highways outside the limits of cities and villages, is not controlled by the provisions of this section.

Dated May 6, 1912.

THOMAS CARMODY,
Attorney-General.

To Hon. JOHN WILLIAMS,
Commissioner of Labor, Albany, N. Y.

DEFINITION OF THE TERMS "LOCALITY" AND "PREVAILING RATE OF WAGES" IN THE LABOR LAW.

FACTS.

The Keystone Construction Company, a corporation, is engaged in constructing a reservoir as a part of the new Catskill Water System for the City of New York under a contract with the Board of Water Supply of the City of New York. The reservoir is situated entirely within the corporate limits of the City of Yonkers. A complaint has been made to the Commissioner of Labor that the contractors were violating the Labor Law provisions of their contract in that they were not paying the prevailing rate of wages paid common laborers engaged in the work.

INQUIRY.

What do the terms "locality" and "prevailing rate of wages" mean?

OPINION.

The provisions of the Labor Law in question are found in section 3 and are as follows:

> The wages to be paid for a legal day's work, as hereinbefore defined, paid all classes of such laborers, workmen or mechanics upon all such public works or upon any material to be used upon or in connection therewith shall not be less than the prevailing rate for a day's work in the same trade or occupation in the locality within the state where such public work on, about or in connection with which such labor is performed in its final or completed form is to be situated, erected or used.

It would seem that the meaning of these terms must of necessity be confined to each particular case as the facts in different cases when applied might materially change the meaning of these terms so that any opinion as to either meaning in this case might have application to another case. In this case the reservoir, while wholly within the corporate limits of the City of Yonkers is to be used as a part of the water system being constructed for the

City of New York, yet at the same time this particular work is being constructed within the limits of the City of Yonkers and must there be used when finally completed.

In the dissenting opinion of Judge Parker in *People ex rel. Rogers* v. *Coler*, 166 N. Y., 1, he makes use of the following language as an illustration speaking of the State:

> Were it now engaged in the erection of a new capitol, the public officer or officers having in charge the construction by appointment of the legislature, would, under the authority of the Clark case, be obliged to pay the prevailing rate of wages in Albany, and if, in the course of construction, it should be determined to do some part of the work by contract, as was the case during the last year of work upon the capitol, those having in charge the construction would be obliged to provide in the contract that the contractor should pay the prevailing rate of wages in Albany.

In the case of the *People* v. *Shea*, 73 App. Div. 232, the Court defines the word "locality" in connection with the Civil Service Law as a political subdivision of the State. It would, therefore, seem that as to this particular case the word "locality" must mean the corporate limits of the City of Yonkers. To otherwise construe this in this instance it would be necessary to include the entire line of work from its source to its final completion in the City of New York.

The term "prevailing rate of wages" as used in this statute has had no authoritative judicial construction so far as I have been able to find, yet in the Coler case, above mentioned, Judge Haight in his dissenting opinion, speaks as follows:

> The Century Dictionary defines the word "prevailing" as "prevalent; current; general; common." It is the prevailing, current, general or common rate. In other words, it is the market rate or that which the services are fairly and reasonably worth. Each laborer must, therefore, be paid what his services are worth in the market in that locality.

It would seem, therefore, that in this particular case the term "prevailing rate of wages" must be interpreted to mean the prevailing, current, general or common rate paid for a legal day's work in the City of Yonkers, in the same trade or occupation. I do not think it necessarily means the highest or the lowest wages paid but the average or common rate,— such a rate as one would be able to recover in an action for services where no price was specified in the contract.

As to what the prevailing rate of wages is in this case in dollars and cents, is a question of fact to be determined by the commissioner upon the evidence before him and is in no way a question of law to be passed upon by the Attorney-General.

Dated February 27, 1912.

THOMAS CARMODY,
Attorney-General.

To Hon. JOHN WILLIAMS,
Commissioner of Labor, Albany, N. Y.

COUNTY CONVICTS MAY NOT BE EMPLOYED BY CONTRACTOR FOR CONSTRUCTION OF STATE HIGHWAY.

FACTS.

The Cold Spring Construction Company has proposed a contract with the Board of Supervisors of Erie County for a portion of the work to be performed by the convicts of the Erie County Workhouse under the contract

of the company with the State to construct a State highway through Erie County. The terms of the proposed contract are that the convicts shall break and load stone and remove dirt and work under the direction of the workhouse authorities, for which the contractor shall pay to the county the reasonable value of such services to be estimated and agreed upon by the County Engineer, the Contractor and a third person to be chosen.

OPINION.

Article III, section 29, of the State Constitution is as follows:

The Legislature, shall, by law, provide for the occupation and employment of prisoners sentenced to the several State prisons, penitentiaries, jails and reformatories in the State; and on and after the first day of January, in the year one thousand eight hundred and ninety-seven, no person in any such prison, penitentiary, jail or reformatory, shall be required or allowed to work, while under sentence thereto, at any trade, industry or occupation, wherein or whereby his work or the product or profit of his work, shall be farmed out, contracted, given or sold to any person, firm, association or corporation. This section shall not be construed to prevent the Legislature from providing that convicts may work for, and that the products of their labor may be disposed of to the State or any political division thereof, or for or to any public institution owned or managed and controlled by the State, or any political division thereof.

The constitutional provision quoted as embodied in section 170 of the Prison Law, is as follows:

The superintendent of state prisons shall not, nor shall any other authority whatsoever make any contract by which the labor or time of any prisoner in any state prison, reformatory, penitentiary, or jail in this state or the product or profit of his work, shall be contracted, let, farmed out, given or sold to any person, firm, association or corporation; except that the convicts in said Penal Institutions may work for, and the products of their labor may be disposed of to, the state or any political division thereof or for or to any public institution owned or managed and controlled by the state, or any political division thereof.

It is clear that the proposed arrangement would be a contract between the contractor and the Board of Supervisors to let or farm out convict labor. For this reason I am of the opinion that the contract proposed would be illegal.

Dated April 15, 1912.

THOMAS CARMODY,
Attorney-General.

To Hon. JOSEPH F. SCOTT,
Superintendent of Prisons, Albany, N. Y.

ILLEGAL FOR PARENT WHO OWNS OR CONTROLS A FACTORY OR MERCANTILE ESTABLISHMENT TO EMPLOY HIS CHILD UNDER FOURTEEN YEARS OF AGE THEREIN.

INQUIRY.

May a child less than fourteen years of age be employed in a factory or mercantile establishment owned or controlled by the child's parents?

OPINION.

The sections of the Labor Law pertinent are as follows:

Section 70. Employment of minors.— No child under the age of fourteen years shall be employed, permitted or suffered to work in or in connection with any factory in this state. No child between the ages of fourteen and sixteen years shall be so employed, permitted or suffered to work unless an employment certificate issued as provided in this article shall have been theretofore filed in the office of the employer at the place of employment of such child.

Section 161. Hours of labor of minors.— No child under the age of sixteen years shall be employed, permitted or suffered to work in or in connection with any mercantile establishment, business office, or telegraph office, restaurant, hotel, apartment-house, theatre or other place of amusement, bowling alley, barber shop, shoe-polishing establishment, or in the distribution or transmission of merchandise, articles or messages, or in the distribution or sale of articles more than six days or fifty-four hours in any one week, or more than nine hours in any one day, or before eight o'clock in the morning or after seven o'clock in the evening of any day. The foregoing provision shall not apply to any employment prohibited or regulated by section four hundred and eighty-five of the penal law. No female employee between sixteen and twenty-one years of age shall be required, permitted or suffered to work in or in connection with any mercantile establishment more than sixty hours in any one week; or more than ten hours in any one day, unless for the purpose of making a shorter work day of some one day of the week, or before seven o'clock in the morning or after ten o'clock in the evening of any day. This section does not apply to the employment of persons sixteen years of age or upward between the eighteenth day of December and the following twenty-fourth day of December, both inclusive. Not less than forty-five minutes shall be allowed for the noonday meal of the employees of any such establishment. Whenever any employee is employed or permitted to work after seven o'clock in the evening, such employee shall be allowed at least twenty minutes to obtain lunch or supper between five and seven o'clock in the evening.

The provisions of the statute above cited are very plain. There can be no question about the purpose of the law. It was intended to prohibit the employment of children under fourteen years of age, no matter whether employed directly by the parent or employed in a factory of which the parent was the sole or partial owner or whether forced into the employment of some other person.

I therefore advise you that it is a violation of the law for a parent who owns or controls a factory or mercantile establishment to employ a child under fourteen years of age in such factory or establishment.

Dated May 14, 1912.

THOMAS CARMODY,
Attorney-General.

To Hon. JOHN WILLIAMS,
Commissioner of Labor, Albany, N. Y.

WHEN EMPLOYEEES OF THE DEPARTMENT OF LABOR MAY SERVE PROCESS IN CRIMINAL ACTIONS.

INQUIRY.

Has any person connected with or employed in the State Department of Labor the right to issue any summons commanding any offender to appear in court without first submitting an information to the proper judicial officer who is authorized to issue summons?

OPINION.

The inquiry relates to the power of certain attachés of the Department of Labor to "serve process in criminal actions" arising under subdivision 1, section 43 of the Labor Law, as amended by Chapter 382 of the Laws of 1912. Chapter 382 of the Laws of 1912 provides:

Section forty-three, subdivision 1. The commissioner of labor, his deputies and their assistants and each special agent, confidential agents, factory inspector, mine inspector, tunnel inspector, chief investigator, special investigators, mercantile inspector, or deputy mercantile inspectors may administer oaths and take affidavits in matters relating to the provisions of this chapter, and may also serve process in criminal actions arising thereunder.

The above quoted statute merely provides and authorizes the persons therein designated to serve process after process has been properly and regularly issued.

Process against persons charged with crime is usually either a "summons" or a "warrant." Each is authorized to be issued only by a magistrate except as particularly specified in section 83 of chapter 659 of the Laws of 1910. (Inferior Criminal Courts Act.)

In section 83 of said act, a person violating the provisions of the motor vehicle law or any ordinance, may be served with a summons. Sections 84, 85 and 86 of said act clearly show that the only individuals authorized to serve such a summons are members of the police force of the city of New York. Section 87 of said act carefully and explicitly prescribes the form of such summons. In addition, section 83 of said act further provides:

> It shall be unlawful in such case to arrest such person so charged with violation of the Motor Vehicle Law or the breach of any ordinance *except as herein provided.*

The issuance of a summons or a warrant is a judicial action requiring the exercise of judicial discretion by the magistrate. Before issuing either of such processes, a magistrate is required to make certain examination of the facts and to determine whether they are sufficient to authorize him to exercise his power. (Sections 148 to 151 of the Code of Criminal Procedure.)

The provisions of these sections have been held to be jurisdictional, *People ex rel. Brown* v. *Tighe,* 146 A. D. 491 (October 1911, 2nd Dept.).

The process having been duly issued by the magistrate, the same can be served by peace officers. (Sections 154 and 168 of the Code of Criminal Procedure.) In certain cases a peace officer may arrest a person without a warrant as stated in section 177 of the Code of Criminal Procedure. Even a private person may arrest another,—

1. For a crime committed or attempted in his presence.
2. When the person arrested has committed a felony although not in his presence. (Section 183, Code of Criminal Procedure.)

In *Gold* v. *Armor* (1910), 140 App. Div. 73, it was held there is no distinction between the peace officer without a warrant and a private individual in respect to the right to arrest for a misdemeanor. However, a private person has no right to arrest for past misdemeanors, (*People ex rel. Kingsley* v. *Pratt,* 1880 — 22 Hun, 300) and, after having made the arrest, such private person must conform strictly to the requirements of sections 184 and 185 of the Code of Criminal Procedure.

The amendment made by section 362 of the Laws of 1912 merely authorizes certain persons therein named, employed in the Department of Labor, to serve process in criminal actions. They are appointed officers to serve only such process as has been regularly issued in criminal actions or proceedings arising under the Labor Law and the statute does not authorize them to issue such process.

I am therefore of the opinion that no such person connected with or employed in the State Department of Labor has a right to issue any summons,

commanding any offender to appear in court, without first submitting an information to the proper judicial officer, who is authorized to issue summons.

Dated June 6, 1912.

THOMAS CARMODY,
Attorney-General.

To Hon. JOHN WILLIAMS,
Commissioner of Labor, Albany, N. Y.

RELATIVE AUTHORITY OF THE COMMISSIONER OF LABOR AND OF THE STATE FIRE MARSHAL AS TO FIRE ESCAPES AND INSPECTION OF STEAM BOILERS IN FACTORIES.

STATEMENT.

Various statutes of general application contained in the Labor, General Business and Education Laws, and ordinances adopted by municipalities make provision for the prevention of fires, the protection of inmates of buildings and the inspection of boilers. At the time of their enactment, the enforcement thereof was confided to various State and local officials who, in some cases were entrusted with discretion in remitting the requirements of the statute.

INQUIRY.

To what extent and in what manner is the State Fire Marshal to enforce these statutes, ordinances and regulations?

OPINION.

The needs of this discussion require a rather full quotation from the statutes relating to the Fire Marshal. His powers are found in chapter 453 of the Laws of 1912, amending Article 10-a of the Insurance Law which was first enacted by chapter 451 of the Laws of 1911. The following extracts from the amended statute are important here:

Section 351. It shall be the duty of the state fire marshal to enforce all laws and ordinances of the state, and the regulations made hereunder except in cities having over one million inhabitants, as following:

1. The prevention of fire;
2. The storage, sale or use of combustibles and explosives;
3. The installation and maintenance of automatic or other fire alarm systems and fire extinguishing equipment;
4. The inspection of steam boilers;
5. The construction, maintenance and regulation of fire escapes;
6. The means and adequacy of exit, in case of fire, from factories, asylums, hospitals, churches, schools, halls, theatres, amphitheatres and all other places in which numbers of persons work, live, or congregate from time to time for any purpose and the institution and supervision of fire drills in such premises;
7. The suppression of arson and investigations of the cause, origin and circumstances of fires and explosions.

Section 353. Assistant officers.— All municipal fire marshals * * * shall be, by virtue of such office so held by them, assistants to the state fire marshal and subject to the duties and obligations imposed by this article and shall be subject to the state fire marshal in the execution of the provisions thereof.

Section 355. Duties of the state fire marshal and assistants to inspect public buildings.— The state fire marshal and his deputies or the assistant state fire marshal under his direction shall at least once a year make an inspection of all the buildings, premises and institutions wherever

they may be situated which are owned or controlled by the state of New York or supported in whole or in part by the funds of the state of New York and all other buildings owned or controlled by any county, town or village or other political subdivision of the state of New York or which are supported in whole or in part by the funds of such counties, towns or villages or other political subdivisions except in cities having more than one million inhabitants. He shall cause a report of such inspection to be filed with the board, commission or officer having charge or supervision of said buildings, premises and institutions and it shall be the duty of said board, commission or officer to comply as soon as possible with the recommendations made by the state fire marshal.

Section 356. Duties of the state fire marshal and assistants to inspect other property. * * * Whenever any of said officers shall find any building or other structure, which, for want of repairs, lack of or insufficient fire escapes, automatic or other fire-alarm apparatus or fire extinguishing equipment or by reason of age or dilapidated condition or for any other cause is especially liable to fire or to cause loss of life or damage to property, and whenever such officer shall find in any building or other premises any explosive materials or inflammable conditions dangerous to life or property, he or they shall order the same to be removed or remedied, and such order shall forthwith be complied with by the owner, lessee or occupant of such premises or buildings.

* *

Such owner, lessee or occupant may have the order or the final determination on appeal of an order issued by the state fire marshal reviewed by a writ of certiorari in a court of competent jurisdiction provided proceedings for such review are begun within ten days after such order has been served or appeal finally determined.

Whenever an order has been served requiring the demolition of a building or other structure, or the removal of explosive materials therefrom as hereinbefore provided, and the owner, lessee or occupant thereof has failed to comply with such order * * * the fire marshal may cause such building or other structure to be demolished. * * *

Whenever an order has been served requiring the installation, alteration or repair of fire escapes or exits upon any building or structure in which numbers of persons work, live or congregate from time to time for any purpose, and the owner, lessee or occupant has failed to comply with said order within the time herein specified, the state fire marshal may, in addition to any other penalty mentioned in this article, prosecute such owner or occupant in the criminal courts, and upon conviction such owner, lessee or occupant shall be liable to punishment as for a misdemeanor.

The general principles controlling the inquiries may best be worked out and illustrated in connection with the Labor Law, and for this purpose of convenience it will be treated separately.

1. *Labor Law (a) Fire Escapes.* Although the provisions are somewhat long, a complete reference to the pertinent statutes is necessary.

Section 82. Fire escapes.— Such fire escapes as may be deemed necessary by the commissioner of labor shall be provided on the outside of every factory in this state consisting of three or more stories in height. Each escape shall connect with each floor above the first, and shall be of sufficient strength, well fastened and secured, and shall have landings or balconies not less than six feet in length and three feet in width, guarded by iron railings not less than three feet in height, embracing at least two windows at each story and connected with the interior by easily accessible and unobstructed openings. The balconies or landings shall be connected by iron stairs, not less than eighteen inches wide, with steps of not less than six inches tread, placed at a proper slant and protected by a well-secured handrail on both sides, and shall have a drop ladder not less than twelve inches wide reaching from the lower platform to the ground.

The windows or doors to the landing or balcony of each fire escape shall be of sufficient size and located as far as possible, consistent with accessibility from the stairways and elevator hatchways of openings, and a ladder from such fire escapes shall extend to the roof. Stationary stairs or ladders shall be provided on the inside of every factory from the upper story to the roof, as a means of escape in case of fire.

Section 83. Commissioner of labor may order erection of fire escapes.— Any other plan or style of fire escape shall be sufficient if approved in writing by the commissioner of labor. If there is no fire escape, or the fire escape in use is not approved by the commissioner of labor, he may, by a written order served upon the owner, proprietor or lessee of any factory, or the agent or superintendent thereof, or either of them, require one or more fire escapes to be provided therefor, to such locations and of such plan and style as shall be specified in such order. Within twenty days after the service of such order, the number of fire escapes required therein shall be provided, each of which shall be of the plan and style specified in the order, or of the plan and style described in the preceding section.

It is plain that the Labor Law provides exact and precise specifications for fire escapes on factories of three stories or more, but the statutes also vest in the Commissioner of Labor a discretion to accept other styles of escapes, giving him an actual power of remission from the particular statutory requirements. That is, he may not require more, but may permit less than a compliance with the plan of escapes as given in section 82. The statute first provides for such fire escapes as the Commissioner of Labor deems necessary and then describes exactly what shall be erected foreclosing him from exacting more stringent requirements. Then in the next section he is allowed to *approve as sufficient* any other plan for fire escapes, thus leaving it to his discretion to remit the precise statutory requirements.

The Fire Marshal proposes in place of the specifications laid down in section 82 of the Labor Law and of the regulations made by the Commissioner of Labor to substitute the specifications for fire escapes prepared by the Engineer of the Fire Marshal's department.

Now the power conferred by section 356 of the Insurance Law on the State Fire Marshal as to fire escapes, authorizes him to act in that regard when he shall find any building or structure which from a lack of fire escape or on account of having an insufficient fire escape, is especially liable to fire, or to cause loss of life or damage to property. He is authorized, therefore, to act where the fire escape is insufficient.

Although the Fire Marshal's power to make regulation is thus very broad, yet he must be denied authority to substitute his judgment for that of the Legislature and to require a greater precaution here where the statutory enactment attempts to deal fully and precisely with the subject of regulation or confers upon another officer power to dispense with the provisions of the statute. There is nothing inconsistent between the Fire Marshal's power to enforce all State laws and the existence of statutes to enforce such powers specifically. And so where the statute or a duly authorized officer prescribes the construction of a fire escape, the duty of the Fire Marshal extends to an enforcement of these regulations. Therefore where a factory owner has erected the fire escapes provided in section 82, or such "other plan or style of fire escape" approved by the Commissioner of Labor, the Fire Marshal is foreclosed from questioning their sufficiency. Where the escapes have been erected, the State Fire Marshal cannot by a department ruling add to a statute which professes adequately in precise terms to provide the exact specifications to be followed. But in other cases where the statutes do not expressly provide as to what are sufficient fire escapes or where they do not vest in some officer the right to decide what are sufficient fire escapes, the State Fire Marshal must necessarily pass upon that question, the reasonableness of his determination being subject to review by the courts.

Labor Law (b) Boilers. Section 91 of the Labor Law provides that factory boilers shall be inspected by a person approved by the Commissioner of Labor, while section 357 of the Insurance Law places the duty upon the Fire Marshal, prescribes minutely the procedure to be followed and requires the payment of a fee.

I am of the opinion that the two statutes are so inconsistent, that the Insurance law as a later enactment impliedly repeals section 91 of the

Labor Law, so far as inspection is concerned, on the ground of unavoidable repugnancy.

* * * * * * * * * * * * *

Dated June 7, 1912.

THOMAS CARMODY,
Attorney-General.

To Hon. THOMAS J. AHERN,
State Fire Marshal, Albany, N. Y.

STATE FIRE MARSHAL HAS AUTHORITY OVER THE INSPECTION OF BOILERS IN MINES, TUNNELS AND IN FACTORIES.

June 13, 1912.

Hon. JOHN WILLIAMS, *State Commissioner of Labor, Albany, N. Y.:*

DEAR SIR.— I acknowledge the receipt of your letter of June 11.

I have examined section 124* of the Labor Law in connection with section 357 of the Insurance Law, and with my opinion of June 7th addressed to the State Fire Marshal. I am of the opinion that the same reasoning applies there as was used in the construction of section 91 of the Labor Law. So far as the inspection of the steam boilers mentioned in section 357 are concerned, the State Fire Marshal has been substituted for the Commissioner of Labor.

Very truly yours,
THOMAS CARMODY,
Attorney-General.

By (Signed) J. A. KELLOGG,
First Deputy.

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*Section 124 of the Labor Law provides that boilers in mines and tunnels shall be inspected by a person approved by the Commissioner of Labor, and section 91 of the Labor Law makes a similar provision as to boilers in factories. The ruling above, in connection with the one rendered to the State Fire Marshal on June 7, substitutes the authority of the State Fire Marshal for that of the Commissioner of Labor, so far as the inspection of boilers in mines and tunnels and in factories is concerned.

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